

3. The Cochin Excess Profits tax Act (Amendment) Bill

Mr. M. Sivarama Menon (Advocate-General): I beg to move that the Cochin Excess Profits Tax Act (Amendment) Bill be taken up and finally passed.

Mr. C. J. Mathew (Joint Secretary to Government): I second it.

Motion put and carried

4. The Cochin Verumpattamdars Bill

Mr. A. Madhava Prabhu (Diwan Peishkar): I beg to move that the Cochin Verumpattamdars Bill, † as amended by the Select Committee be taken up for consideration. In doing so, I would like to point out the salient changes that have been effected when the Bill went through the sittings of the Select Committee. Certain definite terms which were not defined in the original Bill have now been defined. Chief among them is the definition of what is called a *kudikidappukaran*. This is a term which has given rise to a number of decisions in the High Court and therefore it was thought necessary that this should be more or less clearly defined. And that is the reason why we have got a definition of the term in the Bill now.

Then, with reference to the exemption of taking away from the purview of the Act, lands within municipal limits. The reason for doing this is obvious. Garden lands not used for paddy cultivation within the municipal areas have risen in price, not due to the rise in price of agricultural commodities. They are not mainly used for agricultural purposes. They come under either holdings for commercial purposes, or holdings for industrial or residential purposes. They have got in towns a particular value which does not depend upon the value of the produce of agricultural lands. That is the reason why they have been taken away from the purview of this Act. Then in Chittur taluk, there is a peculiar kind of tenure called *tharikuthu* tenure. That is also brought under legislation with certain specific rights and liabilities for the landlord and the tenant. Again, there is one point which is likely to give rise to controversy. And that is this. In this Bill no provision has been made for taking back lands belonging to the lessor, if the lessor or any member of his family wants them for self cultivation. Such a provision is found in the Malabar Tenancy Act. But it has given rise to a lot of complaints and the working of it has been more or less abused than properly used. Therefore the committee thought that that provision should not be introduced here. There was a move from some quarters that it should be introduced. The reason for urging that provision to be introduced here is this. The landlord class who could get more appointments in government service before the Staff Selection Board was formed, is classed along with others now and they get only a proportionate share of appointments now. Those who come out of the Universities and are without any occupation, would like to go back to their own lands. That was the idea with which this motion was urged. It sounds all right so far as the ground that is put forward is concerned. But in the working of it where it was tried, it was found more abused than rightly used. Therefore the Select Committee thought that except in cases when land would be necessary for constructing houses for oneself or members of one's own family no provision for eviction should be retained. After partition, there may not be sufficient accommodation in one's own house and one would like to build a residence for himself. In such cases it was thought that there should be a clause which would enable a person who would require to get back his own land for purposes of a building. A provision had to be introduced enabling that thing to be done and that has been done. Even here it has been provided that if a tenant lives in a plot and if that plot cannot be taken back without disturbing his residence there, in such cases the landlord will not get that land. These are the main features of the Bill. I submit that the Bill as modified by the Select Committee be taken into consideration.

***Mr. M. Sivarama Menon (Advocate-General):** I second this motion. In doing so, I wish to make certain observations on the Bill itself. This House has undoubtedly accepted the principles involved in the Bill as tabled by Government. But in considering the various amendments that have been placed before this House by the Government as well as the non-official members. Certain considerations have to be borne in mind. Government have come to the conclusion after mature consideration that this is not an expropriatory piece of legislation. We are assuring the landlord the rent that is due to him. The investment in the land is sought to be compensated by the return that he gets in the shape of rent. Government have not got the least idea to expropriate anyone's

† Appendix II.

* Speech not corrected by the hon'ble member.

property. Government have taken into consideration the interests of the community as a whole, and in that community, landlords and tenants are included. But when one speaks of the sacredness of proprietary rights, he has also to remember that land is not man's creation but the gift of nature; and that improvements made by human labour and endeavour really constitute property in the land. Therefore a landlord who by a course of easy appropriation of land in early days became the owner of the land has got certain corresponding obligations to the community at large. The Government are fully aware that proprietary rights ought to be safeguarded and this Bill never seeks to deprive the landlord of his substantial rights in the property in which he has invested a certain amount of money in the firm hope that he would get a corresponding return for the same. Therefore, the two features the House has to keep in mind in respect of the amendments are that the landlord should be protected and the tenant also should be protected. And both are for the common purpose of improving the lot of the community as a whole.

For that purpose the legislator must keep in view the fact that anything which goes to prejudice the return of the rent that has to be realised by the landlord will be considered to be a real expropriation. If, the rent is practically assured and measures are devised by which that rent can be given to him within a reasonable time, he cannot complain of expropriation. The House may be pleased to keep in mind this fundamental fact that no room for accusation should be given to urge that the landlord has been deprived not only of the possession of the land but even of the rent that is rightly due to him on the respective dates. If we keep that in mind, I should think that this legislation can never be an expropriatory measure, so long as this House will see that the rent payable to the landlord is assured to him at the proper and due time.

Another point that is brought to the notice of the Government and of the public is that it would have been better if all the provisions of the Malabar Tenancy Act are incorporated in the Bill. The Select Committee devoted considerable time for the consideration of the several provisions of the Malabar Tenancy Act and to study the implications contained therein. According to the Malabar Tenancy Act, it is only the cultivating verumpattomdar, the actual tiller or cultivator of the soil, that gets fixity. The intermediaries do not get fixity. It is also necessary that there should be an area of wet land in the holding to entitle him to permanency. If the holding consists only of garden lands—cocoanut lands—, there is absolutely no fixity. The conditions in Malabar, according to the view of the Select Committee, are not the same as in Cochin State. There are several tenants who hold cocoanut and arecanut gardens, and these products have got markets in Cochin and elsewhere from time immemorial. We should try to confer the real benefit that is due to the agriculturists on garden lands also. The Select Committee therefore thought that such a distinction should not exist.

The second point is, should intermediaries be given fixity. That was also a question considered by the Select Committee. When the cultivating verumpattamdar of the land, is given fixity of tenure, and when the intermediate landlords do not get fixity, there is always a competition between the two and so the Select Committee deliberately thought that fixity of tenure should not be confined to the actual persons who cultivate.

The third point which gave some trouble to the Select Committee was the question as to whether the right of eviction should be conferred upon the landlords when as a matter of fact, he or the members of his family require the land for purposes of self-cultivation. The argument is that on account of the unemployment prevailing among the educated persons of the State, there has been for a long time a cry to go back to one's own land and that therefore the right to evict should be reserved. The question was considered by the Select Committee as to how many educated persons have gone back to their lands even in the absence of the Verumpattom Bill. The likelihood of any abuse of that provision was also considered. The report of Kuttikrishna Menon Committee was also considered. When a legislation is undertaken it must be in the interests of the generality of cases. The Select Committee thought that the provision will be abused. There has been such abuse in Malabar. Therefore, in our own way we thought that we would solve the problem. The Select Committee recommended that the right of eviction should not be conferred in such case as it would be a cover to defeat the main principle of the Bill. That was the basis upon which the Select Committee proceeded.

One new feature which this House has to consider is contained in amendment No. 17 to clause 5 tabled by Government. Ever since the economic depression began this House has been accustomed to plead for the scaling down of pattam, michavaram and other debts and it has borne fruit in several ways culminating with the enactment of the Cochin Agriculturists' Relief Act. When the prices of agricultural commodities used to go higher than those prevailing in normal periods, there has been no move for a legislation to scale up the pattam or michavaram. Government have to represent both interests and as far as possible act in such a manner that complaints of this nature may be terminated once for all. It is considered that the fall in the prices of agricultural products should not be an occasion for legislating in favour of the tenant unless the tenant is also prepared to share the fortunes resulting from a rise in the prices of such products with his landlord. There must be a happy companionship between the two in this respect. This principle is the essence of amendment No. 17. With regard to wet lands the pattamchits in most cases provide for payment of pattam in kind. In such cases when default is committed in the payment of rent, the landlord becomes entitled to recover the value of the rent in kind at the market rate prevailing on the date of suit. With regard to cocoanut gardens the stipulation is different. The rent is contracted to be paid in terms of money. The calculation will undoubtedly be based on the market value of cocoanuts at the time of the agreement. When prices deteriorate thereafter the tenant becomes a loser and he appeals for succor. But when prices go higher than the market rate which prevailed on the date of the contract, he is not willing to pay more to the landlord. Therefore Government think that it is high time to impart evenhanded justice to both the parties to the contract. When careful attention is bestowed on the equitable principle involved in the amendment it will be seen that the acceptance of the principle involved in it will serve the interests of both the parties. The tenant will have the option to pay rent in the case of cocoanut gardens either in kind or in money. He can tender the cocoanuts or he is at liberty to pay its money value. The number of cocoanuts to be given must be determined with reference to the price of that article on the date of the pattamchit. If he is not willing to tender the cocoanuts on the basis of such calculation and conversion he will have to pay the value therefor at the rates prevailing on the due date. We shall have to discuss this amendment threadbare and I referred to it only to set your minds to it even at this stage.

Another point that was sought to be made is that war time, when everything is in the melting pot, is not the proper time for a legislation of this kind. Government take a different view. And it is this. The necessity for growing more food has come to the forefront on account of the conditions brought about by the war. The very basis of this legislation is that the fixity of tenure which is given to verumpattomdars will go to better the conditions of these people and encourage them to invest more money to improve the productive capacity of their lands. This is a time when as a matter of fact we have to grow as much food as possible in the interests of the community, and we should infuse confidence in the minds of these people and safeguard their interests. This is the appropriate time when contentment ought to be vouchsafed to the tenant so that they may better cultivate their lands. Therefore I should think that the conditions brought about by the war cannot be urged as an impediment for the moving of this Bill.

One other point which may indirectly arise out of this is this. In considering the question as to whether a State can as a matter of fact be a party to such legislation, I think that the State has got every right to look after the interests of the community as a whole. Therefore, I would appeal to the non-official members to concentrate their attention upon the essential features of the Bill and not try to make it appear that there is an attempt on the part of anybody to worsen the lot of the landlord. I would once again appeal to the Hon'ble Members to render their best assistance in the matter of pushing through this Bill. The Government are anxious to see that a measure which is accepted by the tenant class is equally acceptable to the landlords by its fairness and equity.

Motion to take up the Bill for consideration put and carried

Clause 2

Mr. A. Madhava Prabhu (Diwan Peishkar): I beg to move amendment No. 3* viz., In sub-clause (b) of clause (2) delete the words "and includes". It reads thus.—

* Appendix III—Amendments to the Cochin Verumpattamdars Bill.

"Kudiyiruppu" means the site of any residential building, the site or sites of other buildings appurtenant thereto such other lands as are necessary for the convenient enjoyment of such residential buildings and the easements attached thereto.

Sub-clause (b) of clause 2 reads thus.—"*Kudiyiruppu*" means and includes the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and the easements attached thereto. The amendment is that the words "and includes" should be deleted, because when the word "means" is put in a section, we do not put in the words "and includes" also.

Mr. M. Sivarama Menon (Advocate-General): I second the amendment. It is only a verbal amendment.

Amendment put and carried

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Mr. President, Sir, the amendment is "Add the words orally or in writing" between the words "contracted" and "to" in sub-clause (d). Clause (d) reads like this.—"*Verumpattomdar*" means a lessee or sub-lessee of immoveable property who has contracted to hold the same under a lease with or without *muppattam* either as a tenant-at-will or during a fixed term and includes a *Tharikuthukaran* of the Chittur Taluk, but does not include a holder of a *kanam*, *nerkanam*, *otti*, *adima*, *anubhogam* and other cognate tenures or a *varam* or a *pankupattam* tenant or a *Kudikidappukaran*". The reading of this clause first suggests a sort of exclusion of oral leases. It is just to make it clear that oral leases also are taken in by this deferring clause that the amendment has been tabled by me. Of course, that was the idea in the minds of the framers of the Bill as also of the Select Committee. Therefore, just to make it clear, if it is not sufficiently clear as it stands the words "orally or in writing" are proposed to be inserted.

Mr. C. V. Iyyu (Kunnamkulam): I second the amendment.

Mr. A. V. Moothedan (Chalakkudi): I oppose it. A contract may be either in writing or oral. It is very clear. Both oral and written agreements are valid. I am sorry that I have to oppose the amendment.

Mr. V. J. Mathai (Planters): I support the amendment. There is no meaning in opposing a motion intended to make it clear. This matter was referred to the Select Committee of which I was a member. In fact, several of us thought that such an amendment was necessary. But, technical opinion was that even without the amendment there may not be any difficulty in the construction of the clause. Personally, I feel that there is no harm in amplifying it and making it clearer for the benefit of everybody. After all, it is only 3 words. I strongly support it.

Mr. M. Sivarama Menon (Advocate-General): When we introduce the words "orally or in writing" of course, it takes in both kinds of contract. Then what is to be done in the case of holding over after the period of 12 years or so? There is also no oral lease come to after the expiry of 12 years. It is simply holding over under the same terms. Therefore we must contemplate all sorts of leases which are recognised by law at the present day. Oral lease will come under that, documentary lease will come under that, and even holding over will come under that. ഒരു ക്ലിപ്തകാലത്തേക്കു പാട്ടുജീട്ടിന്മേൽ കൊടുത്തിട്ടുള്ള വസ്തു അതിന്റെ കാലാവധി കഴിഞ്ഞാൽ പിന്നെയും അയാൾതന്നെ വേറെ പാട്ടുജീട്ടോ വാക്കാൽ പാട്ടുമോ ഇല്ലാതെ നടക്കുവാൻ ഇടവരുന്നതായാൽ അങ്ങിനെയുള്ള പാട്ടുക്കാരും ഇപ്പോഴത്തെ ബില്ലിൽ പെടുന്നതാകുന്നു. ഭേദഗതി പാസാവുന്നതായാൽ അങ്ങിനെയുള്ളവർ ഈ നിയമത്തിൽ പെടാതെ വരുവാൻ ഇടയുണ്ട്.

The Transfer of Property Act is in force in this State. Under Section 104 of that Act oral leases are valid excepting those from year to year or for any term exceeding one year or reserving an yearly rent.

Mr. A. V. Moothedan (Chalakkudi): Without interruption, I may inform the House that there was a High Court decision where an oral lease was held invalid.

Mr. M. Sivarama Menon (Advocate-General): The lease in that case must have been invalid under section 104 of the Transfer of Property Act. That section does not apply to agricultural leases. I therefore think that there is no necessity for the amendment and I feel that the Hon'ble mover may withdraw the same.

Mr. V. J. Mathai (Planters): As regards holding over, does not the common law govern it?

Mr. M. Sivarama Menon (Advocate-General): The holding over will be upon the same terms. There is no special contract on the expiry of the 12 years.

Mr. V. J. Mathai (Planters): The point is now the holding over is recognised by courts.

Mr. M. Sivarama Menon (Advocate-General): Yes. By introducing the words "orally or in writing" you may be tabooing that. The Transfer of Property Act must govern the validity or otherwise of unwritten and oral leases.

Mr. A. V. Moothedan (Chalakkudi): I may inform that very recently there was a decision in 9 Cochin Law Journal 95. The question was whether a lessee holding under a lease can be called a verumpattomdar at that time and whether the suit should be stayed. It was held that he was a verumpattomdar and the suit was stayed.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): If the position is so very clear, I am not anxious to press it.

Amendment, by leave, withdrawn

Mr. C. K. Nayar (Nemmara): Both the amendments are in effect one. I do not move that.

Not moved

Mr. A. Madhava Prabhu (Diwan Peishkar): I beg to move the following amendment.—"In sub-clause (d) of clause 2 for the words "during a fixed term" the words "for a term" shall be substituted.

Amendment put and carried

Amendments to Clause 1

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Mr. President, Sir, before moving this amendment, I have to bring to the notice of the Hon'ble President for his sympathetic consideration the fact that unless amendments Nos. 1 and 2 are disposed of, there is some difficulty in considering amendment No. 7, because amendment No. 7 in a way follows as a consequence of amendments Nos. 1 and 2—whichever is acceptable relating to the same point though on a strict construction amendment No. 7 stands on a different footing. So, I would request the Hon'ble President to take up amendments Nos. 1 and 2 first and then consider amendment No. 7.

Mr. President: I have no objection to taking up amendments No. 1 and 2 if the House is agreeable.

Mr. C. V. Iyyu (Kunnamkulam): I beg to move my amendment.—"Add as proviso to clause 1 (2) the following.—"Provided that in all suits for eviction of Verumpattomdars instituted after the 1st Kumbham 1114, the rights and obligations of the parties concerned shall be regulated by the provisions of this Act whether decrees have been passed in such suits or not."

In this connection, I may bring to the notice of the House that on the last day of Makaram 1114 the then Diwan President Sir Shanmukham Chetty in reply to an address given to him by the present Hon'ble Minister, then as Mr. T. K. Nayar, M. L. C. in his own native village said "the Government is considering about the appointment of a committee to draft a bill to give fixity of tenure to the verumpattom tenants". In the newspapers published on the 1st day of Kumbham this was broad-cast as the most important news item of the day. The landlords began to institute suits for the eviction of tenants from that date. Later on the 2nd August 1939 in his last closing speech of the then Diwan President gave the following memorable announcement. I shall just read that portion from his speech.—"And I might say that it is our intention to introduce, if possible, in the Vrischigam session a measure for giving permanency of occupancy for verumpattam tenants. (*Hear, hear*). In fact three months ago Government set up a departmental committee for studying the question, and that committee have already submitted to me a draft Bill for this purpose, and I am hoping that it will be possible for Government to introduce such a measure in the Vrischigam Session. Talking about a measure of that kind, I have heard apprehensions expressed in certain quarters that in anticipation of such a measure some landlords are already trying to evict verumpattam tenants without proper cause, and some are trying to change the character of the tenancy by some means or other. Well, I might assure the public through this House that when a Government wants to enact a measure of that kind, they would not allow loopholes of this kind to be availed of. Because, in fact, there would necessarily be a provision in such a measure that verumpattam tenancy which could be proved during the last one or two years will be considered a verumpattam tenancy notwithstanding anything that might have happened during the interim period. So the tenants need not be apprehensive about that nor the landlords be jubilant that they got breathing space to get rid of these verumpattam tenants. I once more express the hope that the measure that we have enacted today will give in some way proper relief to the agriculturist class of this State." By these memorable words, Government stand committed for moving a Government amendment that the Bill must have retrospective effect from the 1st Kumbham 1114. The Select Committee which was appointed by the Council in Vrischigam 1115 to consider the then verumpattam bill has submitted a unanimous report as far as this aspect is concerned. In the modified form unanimously agreed to they have provided for retrospective effect from the 1st of Kumbham 1114. It is with that background as defence for my amendment that I move this amendment. I hope this amendment will be accepted by the House unanimously.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Mr. President, Sir, An almost similar amendment stands in my name, *viz.*, the first clause of amendment No. 2, in the printed papers. I, therefore, wish to second this amendment and utilise the occasions for explaining to this Hon'ble house the implications of that portion of amendment No. 2, so that, if the amendment moved by the Hon'ble Member for Kunnamkulam is passed by this house, I need not move the first part of my amendment. But before doing so, I may be permitted, Sir, to respectfully convey to His Highness our beloved Maharaja the grateful feelings of genuine gratitude of the very vast majority of His Highness's loving subjects—the hard hit agriculturists of Cochin, who form approximately 90 per cent of the total population of the State—and also to thank you, Sir, his trusted Chief minister and adviser for having boldly—I use the word boldly deliberately—embarked upon this extremely beneficent piece of legislation to give them—the backbone of this predominantly agricultural country—permanency of occupancy rights in the lands they cultivate for just enabling them to keep their body and soul together and keep on in a State of semi-starvation and continue to "exist" and not "live" in grinding, emasculating enervating poverty.

There is, Sir, a history—semi disappointing, a semi hopeful and, during a certain stage inexplicable—for the attempts at legislation to do sheer justice by the side of the verumpattom tenants of the State. In seconding this amendment, I crave the indulgence of this Hon'ble House to take the Hon'ble members through the different stages in the attempts at legislation for the benefit of the tillers of the soil. It fell to my humble lot, Sir, to sponsor in this house in the years 1111, 1112 and 1113, a Bill the object of which was to give fixity of tenure to the verumpattomdars which was an adaptation of the Malabar Tenancy Act (Madras Act No. XIV of 1930). The then Diwan President Sir R. K. Shanmukham Chetty, instead of allowing the Bill to be sent to a Select Committee suggested from the Chair that opinion may be elicited from the public on that Bill although at that time there was no provision in our Legislative Council Act for eliciting opinion on any measure that is before the House. It was, therefore, by an executive act of the Government that opinion was elicited, collected and placed before the

members of this House. In a very short time Government did collect opinion from the public and after that had been done I took the opportunity to move for the introduction and the sending of the Bill to a Select Committee. The attitude then taken up by the Government is something which has no comparison with the attitude that was assumed by the government in subsequent years culminating in the introduction of the Bill that we are now considering. A definite attitude of opposition was taken up by the Government on the ground that there existed no grounds for giving any sort of fixity of tenure to the Agriculturist tenants of the State. That was the disappointing position taken up by the Government in 1112 as also in 1113. The result was that very humble attempts at sponsoring a Bill was torpedoed even at its earliest stage. Almost full two years passed by. Then came a happy change in the mentality of the Government. At a time when a revision of the Devaswam lands was unnecessarily being considered by the Government to increase the income of the Devaswam at the expense of the tenantry an area which is full of Devaswam tenants, namely Thiruvilwamala arranged to invite the then Diwan Sir Shanmukham to that place, to inform him of the real conditions of the Devaswam tenants particularly at that place and generally throughout the State. An address was presented to him there and the reply to that address is that my Hon'ble friend the Member for Kunnamkulam was referring. This was in Kumbham 1114. What the Diwan stated at Thiruvilwamala was announced by him, with greater directions and force in this Hon'ble House towards the close of 1114. Sir Shanmukham as the Diwan President of this House made a solemn declaration to the representation of the people and through them to the tenants of Cochin, that a Bill giving fixity of tenure to the Verumpattamdars of Cochin would soon be introduced by the Government. The House, will, therefore be pleased to note that between the early days of 1113 and the last days of 1114, there had come about a happy change in the attitude of the Government. The Government, that opposed and vehemently spoke against the introduction of a Bill like the Verumpattom Tenants Bill that was brought before this House by my humble self, in such a short time—it is very happy to note—had changed their attitude of uncompromising hostility to one of vigorous partisanship with the hard hit and suffering agriculturists of the land. It was in the Budget Session of Karkadagam 1114, after the Government had passed a very salutary piece of legislation that the solemn announcement which has now become very famous indeed, was made by Sir Shanmukham from his august and very responsible place of the Diwan President of this House to which reference was made by my friend Mr. Iyyu. It was after a very salutary Bill namely the Agriculturists' Relief Act, was passed by this House in record time, sitting both day and night to consider the various clauses of that Act, it was, Sir, on the last day of the Budget Session of 1114 after the 3rd reading of the Act was passed, when I had the pleasure to witness from the President's gallery member after member getting up in his seat, vying with each other in congratulating and complementing the Government in the change of mentality that had happily come about in the Government. It was after all those deserved compliments were unstintingly paid to the Government, it was Sir, in reply to those complimentary speeches, that Sir Shanmukham made the solemn declaration referred to by the Hon'ble member for Kunnamkulam. The implications of that solemn announcement of the Government were far reaching indeed. It was stated by the Diwan President Sir, that he was not satisfied in his capacity as the Diwan with the passing of the Agriculturists' Relief Act alone. He had understood, he said, the miserable plight in which the real tiller of the soil is placed by the process of arbitrary evictions and rack-renting, practised by a large section of the jenmies of the land and that, therefore he is having in his mind the introduction of a Bill to relieve to the agriculturists at the earliest possible date. He said it would be introduced by the Government if possible in the Vrischigam session following. He also announced, Sir, that the departmental committee appointed by him 3 months back had already submitted a draft Bill which will give relief to the agriculturists of Cochin and he also gave out the solemn assurances which were referred to by my friend and declared in unmistakable terms that if any jenmi or jenmies had taken it into their heads to over reach and defeat the objects of the Government, Bill. Therefore, he declared, Sir, there is nothing for the tenants to fear either from decrees being obtained by jenmies for evicting verumpattamdars from their holdings or the nature of the existing tenures being converted into tenures which are evictable if these are done subsequent to the day the Government decided upon the question of introducing a Bill giving fixity of tenure to verumpattamdars, as there will be incorporated in the proposed legislation a clause giving retrospective effect to the Bill back to the day when the Government decided to embark on legislation. These words of the Diwan President are worth quoting. Thus proclaimed the Diwan President. So the tenants need not be apprehensive about that nor the

landlords be jubilant that they got breathing space to get rid of these verumpattam tenants." It was on authentic information reaching the Diwan that he gave utterance to these memorable words. It was conversions of real verumpattam tenures into what are called 'Pankupattam, varapattam, etc., that Sir Shanmukham had in his mind when he referred to the jenmies trying to change the nature of the tenures some how or other. "Talking about a measures of that kind, I have heard apprehensions expressed in certain quarters that in anticipation of such a measure some landlords are already trying to evict verumpattam tenants without proper cause, and some are trying to change the character of the tenancy by some means or other."

Now, Sir, what are the repercussions of this announcement made with the best of intentions and in favour of the tenants. In spite of these warnings given to the jenmies against their evicting verumpattamdars and changing the nature of non-evictable tenures into evictable ones successful attempts have been made by a class of jenmies both in evicting verumpattamdars and in changing the nature of the tenancy. To give the benefit of this Act to these verumpattamdars who have been reduced to this position, viz., varam tenants or pankupattam tenants or who have actually been evicted by the jenmies between these dates, is the minimum separation that can be given to these unfortunates. To do otherwise, is sheer injustice. The object of the amendment tabled by my friend, the Hon'ble Member for Kunnankulam as also by myself is that retrospective effect be given to this Bill with a view and with the object of giving relief to such tenants.

My amendment can usefully be read at this stage. "Add the following after sub-clause (2) as sub-clauses (3), (4) and (5).—"(3) all suits for evictions of verumpattamdars instituted after 1st Kumbham 1114 (the first day of Kumbham on thousand one hundred and fourteen) whether pending disposal in any court or already disposed of finally, shall be decided or deemed to be decided under the provisions of this Act.

(4) Verumpattamdars already evicted from their holdings under decrees in suits instituted after 1st Kumbham 1114, shall have the right to claim back such holdings on payment to the lessor of any value of improvements received on eviction and also the value of improvements effected, if any, by the lessor subsequent to eviction.

(5) Suits to enforce the rights under clauses (4) shall be instituted within one year from the commencement of this Act".

Mr. President : Do you want to move it first ?

Mr. M. Sivarama Menon (Advocate-General) : It is highly necessary that these amendments should be considered together, because the amendment moved by Mr. Iyyu is not clear. Therefore, it is better that the second amendment is moved first, because there is no remedial provision provided in Mr. Iyyu's amendment.

The House rose for lunch at 1 p.m. and reassembled at 2-30 p.m. with Rao Sahib K. Ayyappan, the Deputy President in the Chair.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri) : Mr President, Sir, When the House rose in the forenoon I was on the change in the mentality of the Government which from an attitude of hostility to the tenants had happily changed into one of espousing their cause against the unwarranted actions of a class of jenmies. Just in keeping with the assurance given by the Diwan in Karkadagam 1114, the Government introduced in the first meeting of the Legislative Session of 1115, i.e., in the Council that met in Vrischigam 1115, a Bill giving fixity of tenure to the verumpattamdars almost on the time of the Tenancy Act now in vogue in British Malabar and the same was referred to a Select Committee which, again in record time, reported in the month of Kumbham 1115 and a motion was actually put down in the provisional agenda for Meenam Session. For reasons best known to the Government, Sir, the then constituted Government did not think it convenient to move for the consideration of the Bill which changed attitude of the Government led the then leader of the opposition—the present Hon'ble Minister—to table an adjournment motion, the object of which was not to censure the Government for not bringing forward the motion for consideration but only to request His Highness the Maharaja to issue a proclamation whereby the suits that are already instituted by the jenmies and suits that might thence forward be instituted by jenmies may be stayed by a proclamation till the Bill that was reported on by the Select Committee became law. Even at that stage of admission of the adjournment motion the Treasury Benches tried their level best to oppose that motion for adjournment on the ground that the adjournment motion did not conform to the rules and the Standing Orders. Again, it was the Diwan President who came to the rescue and said that although strictly speaking the adjournment motion cannot be admitted under the Standing Orders, the implications in the adjournment motion clearly show that the matter contemplated to be discussed or the matter attempted to be requested to be done by the Government is one of public importance and of a very emergent nature and the adjournment motion was accordingly allowed by the President and it was

discussed. At the time of the discussion, the Government, the sponsors of the Bill that was reported on. They opposed the motion saying that there is no point in requesting for the issue of a proclamation inasmuch as there is provision in the Bill reported by the Select Committee to give retrospective effect back to the 1st of Kumbham 1114. The member in charge of the Bill who was the spokesman of the Government on the adjournment motion therefore stated that if the Bill becomes law whatever mischief might have been done by the jenmi will be undone by the clause giving retrospective effect to the Act. The adjournment motion was therefore not pressed. This was in Meenam 1115.

There was a lull. The Government could not normally bring the Bill in the Budget Session of 1115. One could understand the delay till the Legislative Session of 1116. But the Government did not bring forward the motion for consideration of the report of the Select Committee in any of the three meetings in Vrischigam, Makaram or Meenam 1116. The Budget Session of 1116 also passed by. This long delay from Meenam 1115 right down to the end of 1116 is simply inexplicable. But the delay though long has indirectly helped the tenancy very much indeed; for the present Bill introduced by the present Government is a distinct improvement on both the Bills that were brought forward by me in 1112 and by the then Government in 1114. The delay has therefore done the tenants immense good for which we the representatives of the people of the country have necessarily, dutifully and gladly to congratulate the Government and to congratulate ourselves upon this happy change in the mentality of the Government. But this long delay in bringing forward this Bill and the Bill not having in it a clause giving retrospective effect like the one in the Government Bill of 1114 has done many verumpattamdars immense injury. Between 1st Kumbham 1114, the date from which the Bill of 1114 said it will be in force and the Proclamation, III of 1117, dated 13th Vrischigam 1117, may a suit in eviction has been filed, a good way ending in decrees and a good way of these ending in eviction. Therefore, Sir, these things stated by me have established a fair case to place before the Government and this House to give retrospective effect to this Bill from the date mentioned in the previous bill, namely, the first Kumbham 1114. That is sought through clause 3 the first part of my amendment. There may be defective wording in my amendment but that can be improved by persons who are more competent to do it. Clause (3) which is the first portion of my amendment No. 2 is to give retrospective effect to the Bill from 1st Kumbham 1114. Clause (4) necessarily follows from clause (3) and clause (5) only lays down a time limit for getting back the properties so evicted. With these few words and thanking you for the indulgence extended to me I commend the amendment for the consideration of the House.

Mr. A. V. Moothedan (Chalakkudi): I regret that I have to oppose this amendment also. Regarding the objects there is no difference at all, between the Hon'ble mover and myself. What I say is these amendments are not necessary. The Hon'ble member wants to give retrospective effect. In this connection three or four points have to be considered. There are sections 11 and 12 of the Bill and also Proclamation VI of 1117. My friend wants only to deal with cases where eviction is ordered through court. In such cases there are two possibilities. Either the suit must have been decreed and eviction ordered or the suit should have been pending. If the case is pending, then there is Proclamation VI of 1117. I shall read the Proclamation. I am reading the Proclamation issued on the 13th day of Vrischigam 1117.—

2. This Proclamation shall not apply to VERUMPATTAMDARS of buildings intended for residential, commercial or industrial purposes, with the land, if any, necessary for the convenient enjoyment of the building and appurtenant thereto, or to VERUMPATTAMDARS from usufructuary mortgagees and to persons deriving interest from them.

3. No suit shall be instituted against a VERUMPATTAMDAR for eviction nor shall he be evicted from his holding in execution of a decree for eviction. All suits and appeals for eviction of VERUMPATTAMDARS now pending in the courts shall be stayed but this shall not preclude courts from granting relief for arrears of rent due in respect of the holding.

This Proclamation comes into force on the 13th day of Vrischigam 1117. If in a suit eviction has not been ordered till that date, all the proceedings must have been stayed. So, in such a case no harm is done. All the cases contemplated by Mr. Ezhuthassan are covered by sections 11 and 12. Therefore, Proclamation VI and sections 11 and 12 of the Bill will cover almost all the cases contemplated by Mr. Ezhuthassan. Therefore, my submission to the House is that there is no necessity for these amendments. Mr. Iyyu's amendment is also clearly covered by section 6. Nothing more has therefore to be done. Mr. Ezhuthassan's amendment takes in those cases where eviction has been ordered by court before Proclamation VI of 1117 came into force. There may be a few

cases like that. We shall just analyse the possibilities. The starting point is 1st Kumbham 1114. There is an intervening period till 13th Vrischigam 1117. There is an intervening period, nearly one year and nine months. In a contested eviction suit it will take one and a half or two years for evicting a decree. So my statement is before this Proclamation came into force there must have been no case at all where there has been contest regarding eviction and value of improvements. In some cases, three, four commissions have to go. My submission is therefore, no real hardship is caused if these amendments are not incorporated in the Act. If there is a real grievance for the tenants to surrender the property there will be heavy contest. In such cases there must have been no eviction before the Proclamation came into force. So it is not quite possible that there must have been a good number of cases, there must have been *ex parte* cases. There must have been surrender before the Proclamation came into force. Then what about the voluntary surrender? Then tenant can voluntarily surrender the whole thing without the court of Law. What do you say about that? After the 1st Kumbham 1117, a tenant is free to surrender the holding to the jenmi. Is that covered by the amendment? In *ex parte* cases, my submission is there must have been heavy arrears of *pattam*. Therefore, if there are *ex parte* cases, they are for huge arrears and hopeless cases. In such cases there must have been voluntary surrenders also. My submission is all the real cases which ought to be relieved and which ought to get relief under the act will be protected by sections 11 and 12 and Proclamation VI of 1117. Therefore my friend's amendment is a redundancy. His object is achieved by sections 11 and 12 and Proclamation VI. Why should you add clauses which are unnecessary? The Bill is in a very simple form. Why should you make it complicated by such additions? Therefore the amendment moved by Mr. Ezhuthassan and Mr. Iyyu are all redundant and therefore unnecessary. If the tenants have got a real grievance they will be protected by sections 11 and 12 and Proclamation VI. Therefore I submit to the House that these amendments need not be accepted.

Mr. M. K. Devassy (Adur): I rise to support the amendment moved by Mr. Ezhuthassan. I feel extremely grateful to Mr. Moothedan for the elucidation of legal implications which my Hon'ble friend has incorrectly undertaken. I say incorrectly because none of the points which my Hon'ble friend has stated has much relevancy in this matter. If only this House will consider one important aspect namely—a Government should not be directly responsible for doing a positive harm to the people, when I think this amendment has a place on our statute. It is the announcement made by the Diwan that the Government is going to undertake a legislation of this sort that has been responsible for the innumerable number of cases for eviction which have come before the courts of Law. By accident, the legislation which was contemplated by the Government then could not be carried through. It is not the fault of the tenant; it is the fault of the Government. Mr. Moothedan says that it is not necessary.

Mr. A. V. Moothedan (Chalakkudi): It is not so. My friend assumes that after the eviction the properties are in the hands of the landlords. The landlords may lease them to new tenants. There are several cases, where after eviction lands have been leased to new tenants.

Deputy President: Mr. Moothedan only said that these amendments are not necessary.

Mr. M. K. Devassy (Adur): My friend was stating that a suit for eviction even though it was filed in 1115 Kumbham would not have been disposed of by this time. My Hon'ble friend is absolutely wrong, for the simple reason that there is no reasonable contention in a properly framed eviction suit.

Mr. A. V. Moothedan (Chalakkudi): My friend is hopelessly labouring under a misapprehension.

Mr. M. K. Devassy (Adur): I suppose my friend should be offering *malafide* advice to his clients, or he has not understood it. May I know what is the earthly contention he can put forward?

Mr. A. V. Moothedan (Chalakkudi): Value of improvements and two or three commissions are given. I am very sorry that my honourable friend is so very ignorant.

Mr. M. K. Devassy (Adur): If my friend is under the impression that paddy lands can be evicted only by giving value of improvements I leave him to learn from experience. I am saying that in the majority of cases, there is no room for contention in a suit for eviction. There may be a small percentage of cases where there is scope for contention and where the period might have been prolonged. But in the normal number of eviction suits there is no contention which could be reasonably put forward which would justify the prolongation of those suits. My Hon'ble friend is practically admitting the whole substance of this amendment. He says that there is redundancy. I say let us undergo some redundancy if it will benefit one man in the State.

Then my friend was referring to the proclamation. The proclamation is too late. By the date of the proclamation eviction suits were filed and disposed of. Landlords are ingenuous people who can find out ways and means of recovering their lands as cleverly as possible. Without much delay this House will have to consider the amendment of Mr. Iyyu.

My Hon'ble friend was referred to voluntary surrender. Since it is not exactly relevant to the discussion here I don't speak on it. I hope that the Government will reconsider the position and will agree to the amendment.

Mr. P. P. Devassy (Trichur-South): Sir, while Mr. Moothedan, the Hon'ble Member for Chalakkudi, was opposing the two amendments proposed by Mr. Ezhuthassan and Mr. Iyyu he was pointing out three cases which have been left uncovered by the amendments. One is *ex parte* cases of eviction, one, voluntary surrender and the third where the properties have after eviction gone into the hands of others. I do not know how the fact that these three cases are not covered by the amendment makes him say that these amendments are unnecessary. He can at the best only say that these amendments are not sufficiently comprehensive and exhaustive. He can only say that these amendments must be more broad-based so that these three cases which he has with his own ingenuity discovered may also be covered; and I request Mr. Moothedan, if it is not too late to so move amendments as to cover even these three cases. It is true that there may be hardships in cases where properties have after eviction gone into hands of people other than *jenmis*. By paying any amount to the lessor, the *jenmi*, it will not be possible for the lessee to get back those properties, for they themselves will not be in a position to surrender the properties in favour of the lessees. In such cases these amendments will be helpless. In the case of voluntary surrenders if it is left to the option of the lessee at least for one year after the passing of this legislation to come to court and sue for the recovery of the property, the legislation could be of help to him. In the case of *ex parte* surrenders of properties by lessees the lessees might have thought that they are not worthwhile. But now there is fixity of tenure and they may feel it desirable to get back those properties. That there are these three cases which have not been covered by the amendments is no ground to oppose them. It only affords room to extend the scope of the amendment if it is not too late. As for redundancy, the Hon'ble member for Chalakkudi admits that the proclamation has come in only more than two and a half years after the announcement of the intention of this legislation. It is not necessary to further impress upon this House that the mistake came in on account of the enthusiasm on the part of the then President to announce too early his intention of a legislation like this. Whosoever be responsible for the early information of giving a legislation, it has been taken undue advantage of and several innocent lessees have been put out of possession of properties which they might have been in possession but for the announcement of the legislation. It is the duty of this House to respect the grievances of those tenants. I, therefore, agree with the movers of this amendment in the principle that retrospective effect as far as possible must be given, and the fact that retrospective effect cannot be given to cover all possible cases is no reason that whatever can be given should not be given. I therefore request this House to make these amendments as comprehensive and as exhaustive as possible, and not to reject them on the ground that they are not all-embracing, all-comprehensive. I commend these amendments for the acceptance of the House.

Mr. M. Krishna Menon (Trichur-North): I beg to support these amendments. I hope the learned member for Chalakkudi is aware of the fundamental principle in law that no statutes will be given any retrospective action and it is on a realisation of that principle that no statute will have retrospective effect, that these amendments have been purposely brought forward. It is to enable the tenant to realise the full benefits of this act principle I support these amendments and I request Mr. Moothedan to reconsider this view.

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ: സർ, ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. ഒരു ദി വാൻ ഒരു പ്രസ്ഥാനത്തിൽ ഇങ്ങിനെ ഒരു ബിൽ വരുവാൻ പോകുന്നു എന്നു പറഞ്ഞതിനാൽ വളരെ ആളുകൾ അതിൽനിന്നു രക്ഷകിട്ടുവാൻ വേണ്ടി പല പ്രയോഗങ്ങളും ചെയ്തിട്ടുണ്ടെന്നു ഉള്ള കാരണത്താലാണ് ഈ ഭേദഗതി വേണമെന്നു പറയുന്നത്. അങ്ങിനെയാണെങ്കിൽ ഇ വിടെ കൊണ്ടുവരുന്ന ഏതു നിയമത്തിന്നും റിട്രോസ്സക്ടറീവ് ഇഫ്ക്ട് കൊടുക്കേണ്ടിവരും. ഇൻകംടാക്സ് ബിൽ ഇവിടെ ഇൻറർഡ്യൂസ് ചെയ്തിട്ടുണ്ട്. ആ ബിൽ വരുന്നു എന്നു കേട്ടിട്ടു പല ആളുകളും ഇൻകംടാക്സ് കൊടുക്കാതിരിക്കുവാൻ വേണ്ടി എന്തെങ്കിലും ചെയ്തിട്ടുണ്ടാകും. അതിന്നും റിട്രോസ്സക്ടറീവ് ഇഫ്ക്ട് കൊടുക്കണം. പിന്നെ Child Marriage Restraint Bill വന്നപ്പോൾ അതിൽനിന്നും രക്ഷപ്പെടുവാൻ വേണ്ടി പന്ത്രണ്ടുവയസിൽ കല്യാണം കഴിച്ചു കൊടുക്കേണ്ട പെൺകുട്ടികളെ ആരും എഴുപതോളം വയസിൽ കല്യാണം ചെയ്തുകൊടുത്തി

ടുണ്ട്. വാസ്തവത്തിൽ ഈ മാതിരി അധികം ദ്രോഹം ചെയ്യുന്നവർക്കു വലിയ ശിക്ഷയാണു കൊടുക്കേണ്ടതു്. ഇങ്ങിനെയാണെങ്കിൽ അതിന്നും റിട്രോസ്ക്റ്റീവ് ഇഫക്റ്റു കൊടുക്കണം. സാധാരണ ഒരു ബിൽ ഇവിടെ കൊണ്ടുവന്നാൽ ചുരുങ്ങിയതു ഒരു കൊല്ലം കഴിഞ്ഞിട്ടാണ് അതിവിടെ പാസാകുന്നത്. അതിനിടക്കു ആ നിയമത്തിന്റെ പരിധിയിൽ പെടാതെ കഴിക്കുവാനായി വേണ്ട വഴികൾ നോക്കാവുന്നതാണ്. ഈ നിയമസഭയിൽ കൊണ്ടുവരുന്ന സകല നിയമങ്ങൾക്കും ഈ മാതിരി റിട്രോസ്ക്റ്റീവ് ഇഫക്റ്റു കൊടുത്തു കൊള്ളണം.

മ.മ.മ. ര്-നു മുമ്പു ചില ജന്മികൾ ഭൂസ്വീകാരത്തോടുകൂടി ചില കടിയാന്മാരെ ഒഴിപ്പിച്ചിട്ടുണ്ട്. എന്തുകൊണ്ടു അവർക്കും റിട്രോസ്ക്റ്റീവ് ഇഫക്റ്റു കൊടുത്തുകൂടാ? മ.മ.മ. ര്-നുശേഷം ചില ജന്മികൾ കടിയാന്മാർ പല ഉപദ്രവങ്ങളും ചെയ്തുകൊണ്ടു കടിയാൻ ഉണ്ടാക്കിയ ചുമയങ്ങൾക്കു ന്യായമായ വിലകൊടുത്തു വസ്തു ഒഴിപ്പിച്ചിട്ടുണ്ട്. അവർക്കും എന്തുകൊണ്ടു ഈ ഒഴിവുകൊടുത്തുകൂടാ? അങ്ങിനെയുള്ളവർക്കും റിട്രോസ്ക്റ്റീവ് ഇഫക്റ്റു കൊടുക്കണം. മ.മ.മ. ര്-നു മേലെയുള്ളവർക്കു മാത്രം റിട്രോസ്ക്റ്റീവ് ഇഫക്റ്റു കൊടുക്കണമെന്നു പറയുന്നതിൽ അർത്ഥമില്ല. കോടതിയിൽനിന്നു ലേലം വിളിച്ചു ചില വസ്തു വിറ്റുപോയിട്ടുണ്ട്. അതിന്നു എങ്ങിനെയാണ് റിട്രോസ്ക്റ്റീവ് ഇഫക്റ്റു കൊടുക്കുക? അതുകൊണ്ടു ഇതൊരു അസാധ്യമായ ഒരു ഭേദഗതിയാണ്. ഈ ഭേദഗതിയിൽ യാതൊരു അർത്ഥവുമില്ല. അതുകൊണ്ടു ഇതിനെ എന്തൊരുവിധത്തിലും അനുകൂലിക്കുവാൻ ഞാൻ വഴികാണുന്നില്ല.

Mr. A. B. Salem (Mattancheri): I also rise to oppose this amendment. It may be that after the eviction of the tenant by the jenmi it has gone into the hands of another tenant. This is a thing which is to benefit the tenant. Why should one tenant be benefited at the expense of another? I can understand the jenmi maliciously evicting a tenant and keeping the property in his hand. There may be cases like that. He might have taken it from a recalcitrant tenant, and found another good tenant, and handed it over to that tenant. If this amendment is carried, that tenant does not get the benefit. That is the aspect which has been forgotten. Why should you make an individious distinction to that tenant and do an injury to another tenant? And as Mr. Ramachandra Ayyar pointed out, how many hands it might have changed. The arguments advanced by the member for Nellore are perfect and there is absolutely no justification of any kind to give retrospective effect. Suppose it took another five years to think over for the Government, to pass this legislation; are the people to suffer? People are not going to suffer. Whether it is in the hands of the tenant or in the hands of the jenmi food will be distributed. If it is going to injure the country at large one can understand. Why should one class be benefited at the expense of another class? So it will do a very great harm if you pass these amendments. You will be upsetting decrees of courts of justice. After decrees the thing might have been sold, and another tenant might have bought it, or he might have sold to another. So I must necessarily oppose this amendment.

***Mr. V. K. Bhaskara Menon (Cranganur):** I oppose this amendment for two very simple reasons. First of all I cannot understand what exactly is wanted by the Hon'ble Mover of the amendment by moving this amendment. I find in the amendment proposed the words "shall be decided or deemed to be decided under the provisions of this Act". I will be particularly obliged if the Hon'ble Mover of the amendment will make the House understand what exactly he wants to be achieved by the insertion of those words. The only conditions upon which eviction can be ordered will be for the non-payment of pattom. Now if my friend wants these words to be introduced into the new Act, I think the result will be that further period from 1st Kumbham 1114 up to this date in cases where courts have ordered eviction and possessions have been handed over in all those cases, the jenmi may not get the pattom at all. Because the only provision that I can find here is that if any value of improvements received by the tenant is paid to the lessor he can claim back the holdings. There may be many cases especially in the case of paddy lands where value of improvements would not have been awarded. In such cases if the property has gone back to the lessor how can the tenant claim it back? What the mover of the amendment had possibly in his mind is that the jenmi should be mulcted in the legitimate dues as to the payment of the pattom. But all the same I don't find anything inserted as to the

*Speech not corrected by the hon'ble member.

payment of pattom accrued due after that. If it is the case of my friend that for the payment of the pattom accrued due before sub-section (d) of clause 8 is to come into operation then I submit to this House that it is extremely hard for the landlord. For, practically, it is a case where he will be deprived of all pattom for the period beginning from 1st Kumbham 1114.

Finally, Sir, I think it is wrong on principle to make any Act retrospective, because the whole difficulty is this. If any Act is made retrospective it really interferes with transactions which have already achieved completion, and if that is so, it will be absolutely difficult for any body to know where exactly he stands. That is the reason we find that almost in all cases no legislation is made retrospective unless the non-retrospective nature of the legislation will work such tremendous hardships for the parties. As regards hardships that the tenants of the State will be suffering by the non-inclusion or by the non-retrospective aspect of this legislation, apart from the vehement ascertions of the Hon'ble Member for Adoor, we have not been having any facts whatsoever. In the absence of those facts by submission to this House is that there is absolutely no reason what such an amendment should be moved with regard to this Bill. I oppose this Bill.

Mr. A. Madhava Prabhu (Diwan Peishkar): I oppose this amendment, on the most fundamental ground that no legislation should be given retrospective effect. There is another ground and, that is, with reference to the wording of the section and the working out of the rights and liabilities which I shall come to later on.

With reference to the first ground, the principle is this. We follow and obey the laws that exist from time to time. Courts deal out justice, decide suits, and execute decrees in accordance with the laws in existence from time to time. Therefore, if we are going to give retrospective effect, it will simply come to this. Today there is one law. According to that law we behave today, and our behaviour today according to that law is certainly well ordered behaviour. Tomorrow another law comes and says that what we did today according to the law of today is absurd, and then go and punish that man for not behaving according to some law which would be enacted later on. That is the result of passing of these amendments aiming at giving retrospective effect. If we are going to have retrospective effect in this fashion the confidence of the general public in the laws of the land existing from time to time will be very considerably shaken. The Government will not be a party to losing the confidence in its own laws, and in their administration. If we are now passing the law which was in contemplation on the date on which the then Diwan President made his pronouncement, then certainly we must say that that law must take effect from the date on which that pronouncement was made. And following that principle here also, what we have done is, from the day on which the Government announced to the public that the Government has in contemplation a law of a particular nature, we have stated that every action that has been taken will be decided in accordance with the law which is going to come hereafter, for which there is the Proclamation and in pursuance of that Proclamation we have got sections 11 and 12; that is to say, on that day Government conceived that the tenants should be placed in the same position as if that legislation were passed on that date. I will put an illustration just to make it clear. Suppose 10 years ago Government conceived of a legislation by which they said that any interest beyond 6 per cent will be considered as penal. For some time that was agitated in the Council, it was thrown out or it was not pressed. Afterwards, people carry on their transactions as if there was not that law. All on a sudden 10 years hence, another Government feels that that ought to have been the law from that moment and says all contracts by which more than 6 per cent interest was paid or received are invalid. Would that not shake the fundamental basis of all confidence in the laws of the land. My submission, therefore, is we ought to have the greatest respect to that principle that no law should have any retrospective effect. Now, apart from that, there is one thing here for eviction of verumpattamdars instituted after 1st Kumbham 1114 whether pending disposal in any court or already disposed of finally, shall be decided or deemed to be decided under the provisions of this Act." That is, if a decree is passed, the wording of that decree should be deemed to be a decree passed in pursuance of this Act. No decree can be construed, if once a decree is passed, in any other language than it purports to convey. The whole question has to be re-opened. No decree can be allowed to stand as it is. If it is to be re-opened, then further provisions should be made, at whose instance it should be re-opened, within what time and on what conditions it should be re-opened, whether he should deposit arrears of pattam, all those

things have to be looked into. The words "deemed to be decided under the provisions of this Act" are against the construction of all decrees. I submit therefore, for these two reasons I have to oppose these amendments.

Mr. M. Sivarama Menon (Advocate-General) : When we say that retrospective effect should be given to a piece of legislation, it is said that it is fundamentally wrong unless there are very cogent and extraordinary reasons justifying such a procedure. It is realising the importance of that principle that the moment Government decided upon the introduction of the Verumpattamdars Bill a Proclamation was issued on the 13th Vrischigam 1117. Therefore, the only period about which this question can be raised is with regard to the period falling between the 1st of Kumbham 1114 and 13th Vrischigam 1117; If during this period there were cases of eviction of those who have not left a pie of arrears, then it can be said with regard to such cases that that was an attempt to deliberately evade the provisions of the Verumpattamdars Bill as it stood then and as it stands now. Even under the former Bill that was introduced in the Council there were provisions for the payment of the arrears. The old Bill was framed on the model of the provisions contained in the Malabar Tenancy Act. With regard to furnishing security this Bill does not contain any provision. There is no provision for eviction for purposes of self-cultivation. The rent is also made invariable. So that, one cannot be under the impression that this Bill stands on the same footing as the Bill that was introduced before. Radical changes there are and to say that because there was an announcement previously with reference to the former Bill retrospective effect is to be given to this Bill also is not a sound argument. If a person had defaulted payment of arrears of pattam, that would have been a proper ground for eviction even under the present Bill. Suppose within this period from 1st Kumbham 1114 to 13th Vrischigam 1117 there were suits for eviction coupled with the claim for arrears not paid by the tenant until the date of the institution of the suits. How can you say that he must be given relief. Therefore, the only case which could consistently stand the test as to whether he should be given the benefit of this, is a case where without any default on the part of the tenant to pay the *pattam* or where he has not been guilty of any of the laches which would form a ground for eviction under this Bill, he has been evicted from his holding by a *jenmi* just to get out of the provisions of the then Bill or the contemplated Bill. That is the only case where you can justifiably argue that here we find a definite case where eviction is unnecessarily restored to. In such a case the Legislature must give back the property that has been so taken away from the hand of the tenant who has not been guilty of any of the laches contemplated by this Bill provided that the mischief has been sufficient enough to justify interference by the Legislature. There were certain questions and answers elicited with a view to show to the Government that there were several such cases and I think the Hon'ble Member for Kunnankulam sent up a good number of interpellations upon this point and the answers elicited by him were not pursued by him. I answered those questions and when I looked at the questions put by Mr. Iyyu, I anticipated that if a good case is made out it will greatly help him for the purpose of giving retrospective operation to the Verumpattamdars' Bill. But he was not able to build a good case upon the figures. There was absolutely no attempt to pursue the point. Now, what is the plight of this House. I am as ignorant as you are with regard to this question of fact. Let us now proceed upon the assumption that I have also no material before me. When I found that the Hon'ble Member for Kunnankulam was not pursuing the matter, I inferred that the figures, if elicited, will not help him. Therefore, we are going to legislate on an assumption which is not proved to exist. The second is even if there are such cases, what must be their number and can it affect the public at large, are they so innumerable, that the Legislature must step in and try to interfere with such cases which have ripened into decrees or actual evictions effected between the 1st Kumbham 1114 and 13th Vrischigam 1117. These are questions which have to be taken into consideration. We are practically groping in the dark upon that point. These amendments were tabled within 7 days' time and the time at our disposal has not been sufficient for the purpose of collecting all the information; We did not collect the information because the time at our disposal was short and because Mr. Iyyu abandoned that kind of action. I am not accusing Mr. Iyyu for that. I am only pointing out the intelligent way in which the Hon'ble Member for Kunnankulam has left us in serious doubts. That will not be the position hereafter when further materials are gathered. But the person who has come forward with substantial amendments has a duty to lay his case upon facts and satisfy the House that there is ground for interference. Negatively, Government have a duty. But the time at our disposal is short. I can state that I shall review the position after collecting further information and make recommendations to Government if a good case is made out.

Mr. M. K. Devassy (Adur): What will be the position if we are going to insist on the payment of arrears.

Mr. M. Sivarama Menon (Advocate-General): That position has not been considered by Government.

Mr. M. K. Devassy (Adur): Will not Government consider that.

Mr. M. Sivarama Menon (Advocate-General): According to me the one case which deserves consideration is the case of the tenant who has been evicted and who has not committed any default. If the House will agree with me upon that aspect whatever be the result of this amendment, the position will be reviewed. But if we are to go further than that, I must appeal to the movers of these amendments to convince us by facts and figures that there have been such a large number of eviction suits on account of the announcement made by the Diwan and that it has resulted in great hardship to the peasantry at large that justifies an interference. The point raised by the Hon'ble Member for Mattancheri and the Hon'ble Member for Chalakkudi was that if the jenmi after eviction gave the land to another tenant, we should not choose between tenants. Why should the community care whether the property is in the possession of tenant A or tenant B? For these reasons I request the House to throw out these amendments.

Deputy President: Before the announcement of the then Diwan President, even defaulters were not usually being evicted. Due to the announcement, defaulters began to be evicted. Then there is a difference between the two cases.

Mr. M. Sivarama Menon (Advocate-General): There is difference between big jennies and jennies in name only. In the case of large arrears eviction were suits unnecessary. They will try to get all the rights of the tenant sold for the arrears. There is a strong body of this House against this amendment. Government are already opposing the amendment.

Mr. M. K. Devassy (Adur): May I make a suggestion. I understand Mr. Ezhuthassan is agreeable to eviction for arrears of pattam. Now this amendment does not include that clause. From what the Advocate-General says, there is the possibility of the Government reconsidering the position. In these circumstances, may I suggest that consideration of this amendment may be postponed to be taken up after the discussion of the rest of the Bill. By that time, an amendment in the proper form can be given. Government will be pleased to consider this question.

Mr. M. Sivarama Menon (Advocate-General): If we agree on principle; nothing stands in the way of recommendations being made by me to Government.

Mr. M. K. Devassy (Adur): Some of us are really for this amendment, but in a modified form. We are for that also. When this is put to vote, there is a danger of its being carried as such. I am just pointing out that difficulty, because we will be carrying one section today, and modifying it tomorrow.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): May I know from the Advocate-General the number of suits staged as a result of the Proclamation.

Mr. M. Sivarama Menon (Advocate-General): I am not in possession of details. I spoke from memory. If you want I shall get it soon.

Mr. T. S. Ramachandra Ayyar (Chittur-Tattamangalam): One point has not come to light. There is a school of thought in this House who, rightly or wrongly, hold the view that landlords should have the right to evict the tenant if he evicts it for purposes of bonafide self-cultivation. So, Sir, though I am entirely one with the mover of the amendment, so far as the underlying spirit or the amendment is concerned, if Mr. Ezhuthassan will find his way to so word the amendment that it will leave out of the purview of the clause as amended, those tenants who have been evicted by land holders for the purpose of bonafide self-cultivation, I assure him I shall support his amendment. If not, I am constrained to oppose his amendment.

Mr. K. Ashtamoorthi Nambooripad (Land-lord): I also oppose that retrospective effect should be given in very exceptional cases. In the majority of cases, eviction as pointed out by the Hon'ble Member for Vadakkancheri will be, if a census is taken, for arrears of revenue. As far as I am able to understand in this case, no retrospective effect need be given, because even the present Act does give the right of eviction in certain cases. Arbitrary evictions are very few so far as I am able to understand. To try to protect all the persons will be only increasing litigation.

Mr. K. Narayana Menon (Mulakunnathukavu): I want to make one or two observations. The President may be pleased to excuse me for referring to a few remarks from the Treasury Bench in reply to the discussion that has been going on. I classify my remarks under two heads. One is as regards the paradoxical nature and the troubles that may arise in the matter of procedure. The other is a matter of convention. And on both these grounds, the Treasury Bench has been unfortunately and regrettably unable to agree with the non-official members who were good enough to move the amendments and support the amendments. I have my answer for the first two. As regards retrospective effect being given to the Bill, it is not ordinarily the practice of legislation to do that and the extraordinary remedy as laid down in the statute is to be done in exceptional cases only. My reply is two-fold. One is, that the government having given once a chance of hope to a large body of His Highness' subjects that a certain legislation is going to be passed in a certain manner has accidentally, intentionally or unintentionally, withdrawn for reasons best known to the Government and I hope the Treasury Bench will have more to do with that than myself or the other Hon'ble Members of this House. Whatever may be the reasons that prompted the government to withdraw that Bill it has, in point, shape or form, been reproduced in this Bill with certain slight modifications. So that the amendment requesting the government to give retrospective effect is nothing unconscionable, illegal, or irreconcilable with jurisprudence. It is not also uncommon to find retrospective effect as may be seen given to the Agricultural Relief Act passed recently.

Deputy President: The position of the Advocate-General is, it may be given.

Mr. K. Narayana Menon (Mulakunnathukavu): As regards the difficulty of the verbal alterations and procedure that may follow, it is the easiest thing for the Hon'ble Member for Law to make the necessary amendments.

Deputy President: There must be cogent reasons.

Mr. K. Narayana Menon (Mulakunnathukavu): There are cogent reasons. The original Bill which was before this Council once is also a government Bill. It was not a Bill that sponsored by any non-official body and that expressly, states in the opening paragraph that it is to come into effect from the 1st of Kumbham 1114. The rights and obligations of the parties concerned shall be regulated by the provisions of the Bill whether decrees have been passed or not. Amendment No. 1 that we find in the printed book is a very old one. It is nothing new that the Hon'ble Member for Kunnankulam has introduced as an amendment. It is only a reproduction of what was in the Bill as submitted by the Select Committee on a previous occasion. Suppose for arguments sake, this Bill had gone into law then and there, or has been delayed for reasons which could not have been foreseen at the time of the introduction. Will the Hon'ble Member for Law be entitled to oppose it that it is six years old. The Bill was first brought in 1112 and now it is 1118. So let us have a new Act. Certainly, the Hon'ble Member will not take up that position. If that is so, there is absolutely no convention violated no jurisprudence outraged and the members are entirely in consonance with the strictest principles of morality asking the government to strictly adhere to what they have been doing, speaking and promising. In that view, the conventions and the aspects are answered.

The next point is regarding the procedure. The final position that has been taken by the Diwan Peishkar is that the final portion of the clause will not be a workable amendment. I do agree with this and I suggest that it is only a matter of procedure and all that is necessary will be for the Learned Advocate General to incorporate special sections on the lines of Section 30 of the original Act that was before this House.

It reads as follows: "Any cultivating *verumpattamdar* who has parted with possession of the properties comprised in his holding in execution of a decree passed in a suit instituted after the 1st Kumbham 1114, or who has of his own accord subsequent to that date parted with such possession is at liberty to apply for delivery of the properties so delivered or surrendered. Such application shall be made within 90 days from the commencement of this Act to the Court which passed this decree where such delivery has been in pursuance of the decree and in all other cases to the Court of the District Munsiff within whose jurisdiction the whole or any of the properties comprised in the holding is situate and the court shall on payment by the applicant of the value of improvements, if any, received by him, together with the value of improvements if any, effected by the land lord subsequent to his taking possession pass an order directing the landlord to restore the possession to the applicant of the properties and such properties shall be held in the

same manner and on the same term as they were held on the date of delivery of possession or surrender."

The second of this is embodied in a miscellaneous chapter whereby the procedure and the remedies prescribed for legislation can easily be entertained without doing any injustice to any of the amendments that may be moved here. These two questions apart, I am very thankful and this House will also be certainly thankful to the Hon'ble Advocate-General for the kind promise and that the spirit of the proposition will be accepted even in a limited sense, namely, that of persons who have been actually evicted for no fault of theirs the government will certainly take immediate notice and serious consideration and may be good enough to give retrospective effect in such cases. It is certainly a very very helpful promise and we are hopeful to that extent. But the unfortunate difficulties are there whereby we have to deal with certain things are which more emotional for practical purposes. "It may be as stated by the Hon'ble member that if persons have defaulted and they could be evicted. What is the meaning of giving relief to such persons under this law?" It is easily met by the answer. There are two sets of tenants who may be affected by this; one is those who are not paying regularly and another who may be defaulting not by their own fault but by extraneous. Will the Advocate-General be pleased to find out any mechanical process by which these two can be distinguished. My respectful submission is, it is impossible. There may be persons living far off, at months' distances and there may be persons with whom the payment may be insignificant; that the jenmi may not care. There are such psychological instances which it is very difficult to discriminate. In such cases, will not the practical portion of the promise so hopefully made by the Advocate-General work absolute mischief. My respectful submission is, it will. While certainly we applaud the Law Member for the kindness with which he made the promise, I could certainly commend to the Hon'ble Members of this House that apart from the very very rare instances, the general provisions of the amendment given effect to will be certainly useful, and I commend this amendment for the acceptance of the House.

മിസ്റ്റർ സി. വി. ഇയ്യ: സർ, എന്റെ ഭേദഗതിയുടെ ആകെയുള്ള നില പറയാം. ഞാൻ ഒരു നിയമജ്ഞനല്ല. എന്തെല്ലാം വകുപ്പുകളിലും ഉപവകുപ്പുകളിലും എന്തെല്ലാം വാക്കുകൾക്ക് അല്പം വ്യത്യാസം ചെയ്താൽ കടിയാനവനാക്കു കൂടുതൽ ഇണം കിട്ടുമോ അതൊക്കെ ചെയ്തുകിട്ടണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ് ഞാൻ ഈ അമെൻഡ്മെൻറ് കൊണ്ടുവന്നിട്ടുള്ളത്. ഇന്നത്തെ ഗവണ്മെന്റിനെപ്പോലെ കടിയാനവനാരോട് അനുകൂലമായും ആനുകൂല്യമില്ലാത്ത ഒരു ഗവണ്മെന്റിന്റെ ദിവാനായിരുന്ന ഒരു ദിവാൻ പ്രസിഡണ്ട് റിട്രൊസ്പെക്ടീവ് ഇഫക്ട് കൊടുക്കാമെന്ന് ഈ സഭയിലിരുന്നുവെന്നു പറഞ്ഞിട്ടുള്ളതാണ്. അങ്ങിനെ ദിവാൻപ്രസിഡണ്ടുതന്നെ ഒരു പ്രഖ്യാപനം പരസ്യമായി ചെയ്തിരിക്കെ അന്നത്തേക്കാൾ കഷ്ടനാരോട് കൂടുതൽ ആനുകൂല്യം കാണിക്കുന്ന ഇന്നത്തെ ഗവണ്മെന്റ് ഇതിനെ അനുകൂലിക്കാത്തതിൽ വളരെ അസാധാരണമുണ്ട്. ഇന്നത്തെ ഗവണ്മെന്റ് മിന്നം സെഷനിൽ, പ്രസിഡണ്ട് ചെയ്ത പ്രഖ്യാപനത്തെ അടിസ്ഥാനപ്പെടുത്തി ഒരു അഡ്ജേഞ്ചർമെൻറ് മോഷൻ കൊണ്ടുവന്നതു താമസിച്ച് കിട്ടുകയും വെറുവാട്ടുകുടിയാൻ ബില്ലിനെ സംബന്ധിച്ചിടത്തോളം ഒരു രാജകീയ വിജ്ഞാപനം പുറപ്പെടുവിക്കുകയുണ്ടായിട്ടുണ്ട്. ൧൧൧൭ വൃശ്ചികം ൧൩-ാം-നു-ക്കു മുമ്പും ൧൧൧൪ കുംഭം ൧-ാം-നു-ക്കു ശേഷവും വന്നിട്ടുള്ള കേസുകളെ സംബന്ധിച്ചിടത്തോളം മാത്രമാണ് റിട്രൊസ്പെക്ടീവ് ഇഫക്ട് ആവശ്യപ്പെട്ടിട്ടുള്ളത്. റിട്രൊസ്പെക്ടീവ് ഇഫക്ട് കൊടുക്കാമെന്നു പരസ്യമായി വാഗ്ദാനം ചെയ്ത ശേഷവും.....

Deputy President: That statement was very cautiously corrected by the Advocate-General.

മിസ്റ്റർ സി. വി. ഇയ്യ: അതുകൊണ്ട് ഞാൻ ആദ്യം പറഞ്ഞതിൽ എന്തെങ്കിലും തരത്തിൽ ബഹുമാനപ്പെട്ട അഡ്വക്കേറ്റ് ജനറൽ അവർകൾ ഗവണ്മെന്റിനുവേണ്ടി ഈ ഭേദഗതി തള്ളപ്പെട്ടാൽപ്പോലും ബഹുമാനപ്പെട്ട അഡ്വക്കേറ്റ് മെമ്പർ പറഞ്ഞതുപോലെ നൂ ശതമാനം പലിശയോടുകൂടി പാട്ടുവാക്കി കൊടുത്തുതീർത്താൽ വസ്തു തീരിച്ചുകൊടുക്കാമെന്നുള്ള ഒരു വ്യവസ്ഥയോടുകൂടി ഈ ഭേദഗതി സ്വീകരിക്കണമെന്നു ഞാൻപേക്ഷിക്കുന്നു. ഈ ഭേദഗതി പിൻവലിക്കുവാൻ ഞാൻ വിചാരിക്കുന്നില്ല. അതുകൊണ്ട് ഇതിനെ ഈ സഭ സ്വീകരിക്കണമെന്നുള്ള അഭ്യർത്ഥനയോടുകൂടി ഇതിനെ പ്രസ്തുതചെയ്യുന്നു.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Are both amendments to be put to vote ?

Deputy President: No, one by one.

Mr. K. M. Ibrahim (Cranganur): The Hon'ble Advocate-General was asking for a definite number of instances.

മിസ്റ്റർ സി. വി. ഇയ്യ: അഡ്വക്കേറ്റ് ജനറലിനുള്ളതുപോലെയുള്ള മറവി എനിക്കും ഉണ്ട്. എനിക്കും അദ്ദേഹത്തിനും വയസ്സും ഏകദേശം സമമാണ്. ചോദ്യം അയച്ചിട്ടുണ്ടെന്നുള്ള കാര്യം എനിക്കുണ്ട്. പക്ഷെ ഫിഗേഴ്സ് കാർമ്മയില്ല. ഞാൻ അവതരിപ്പിച്ചിട്ടുള്ള ൨൪-ാമത്തെ സെക്ഷൻ ഭേദഗതിപ്രകാരം ഒഴിപ്പിക്കുവാനുള്ള വ്യവഹാരം ഇല്ലാതെ കൂടിയാനവനാറെ ഭയപ്പെടുത്തിയും മറ്റും ഒഴിപ്പിച്ചിട്ടുണ്ട്. വസ്തു കയ്യേറി ഒഴിപ്പിച്ചിട്ടുണ്ട്. ചിറുർ താലൂക്കിൽ അക്ഷരാഭ്യാസമില്ലാത്ത കൂടിയാനവനാറെ ജന്മിയുടെ അക്രമം മൂലം വളരെയധികം ഒഴിപ്പിച്ചിട്ടുണ്ട്. ഒരു വലിയ ജന്മി കൂടിയാനവനിൽനിന്ന് കൂലി പറ്റാതെ മുതലായ പാട്ടുചീട്ടുകൾതന്നെയും ഉണ്ടാക്കിയിട്ടുണ്ട്. അതെല്ലാം നിയമമൂലം വിഫലീകരിപ്പിക്കാൻ സാധിക്കും. ഈ ഭേദഗതി പാസ്സാക്കണമെന്ന ഞാനപേക്ഷിക്കുന്നു.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Mr. President, in replying to the debate upon the amendment, I find Sir, my task has been very much minimised in two ways one by the very helpful attitude shown by the Hon'ble Advocate-General and the other, the very effective answers given by a few of my honourable friend to certain points raised by some of the Hon'ble Members who were pleased to oppose the amendment. The Hon'ble Member for Chalakkudi who opposed for opposition's sake on his own admission....

Mr. A. V. Moothedan (Chalakkudi): I said it is redundant ; it is unnecessary.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): Sir, my friend from Chalakkudi has been answered by my friends the Devassys, both by Mr. M. K. Devassy and Mr. P. P. Devassy. The hollowness of the whole argument has been exposed mercilessly by Mr. M. K. Devassy and the unfounded assumptions drawn by the Hon'ble member were very ably met by Mr. P. P. Devassy. As the newly elected Hon'ble Member for Trichur-South pointed out the cases unintentionally left out by me in the amendment will be incorporated in it and the Bill which admittedly brought forward to help the tenants without in the least improving the jenmis may have in it necessary reparations to the tenants brought about by the tactics of the Government. Having had such two able replies to him the Hon'ble Member for Chalakkudi, does not require any more from me in the shape of a reply. My friend the Hon'ble Member for Nellore, in his usual mood has stated that no Bill be given retrospective effect and he has attempted to amuse the House and complicate things by referring to the Child Marriage Restraint Act being given retrospective effect, Income-tax Act being given retrospective effect to, thereby attempting to make out the foolishness of giving retrospective effect to this useful piece of legislation. No more answer is necessary for him. But my sorrow is in that the Hon'ble the Revenue Member attempted to adopt the lines of the argument of my friend Mr. Ramachandra Ayyar. That is something which I did not expect, especially in view of the fact that he is a gentlemen who had been adorning our judiciary for some time. Mr. Salem, an able Advocate, opposing the amendment, asked a serious question, viz., why should one be made to suffer at the cause of the other? when all will be given food by this Act why should there be in this legislation a clause giving retrospective effect? That was the serious question put by him with all his seriousness. I may inform him, Sir, there is no depriving of one man to benefit another in this Bill. This is only doing justice by the tenant without in the least injuring the tenant. That is not in the scope of the amendment. My friend Mr. Bhaskara Menon who tried to elicit some useful and helpful information to help the amendment has unfortunately opposed the amendment for two reasons according to him; and they are what is wanted by the amendment is not clearly known; then it is wrong in principle to give retrospective effect to a piece of legislation. The latter apparently will sound reasonable. But he himself agrees and lays down the correct proposition when he says that retrospective effect could be given and ought to be given in cases where tremendous hardships could be worked unless retrospective effect is given. That exactly is the basis of my amendment as shown by me earlier in the debate I shall revert to that a little later. About the other what is meant by the amendment, I must plead guilty to the use of some ill-conceived words in the amendment. The blame is all my own, the tenant is not to suffer for it. Here is the

Treasury Bench consisting of very able men who can render help in this behalf and the Hon'ble Member for Cranganur may himself put in appropriate words now that has understood what is wanted by the amendment.

Mr. A. V. Moothedan (*Chalakkudi*): In your party, are there not able men?

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*): If you find them to be good accept them; otherwise persist in thinking that you are the only able man; I have no objection even for that. To my friend Mr. Bhaskara Menon who sincerely wanted to know what I had in my mind when I sent up the amendment I say that as far as the first portion *viz.*, clause 3 is concerned it is the same thing as the first amendment on the order paper moved by the Hon'ble Member for Kunnamkulam. I have not the slightest objection to give up my amendment, that is clause 3 in preference to the amendment moved by my friend Mr. Iyyu.

Mr. C. V. Iyyu (*Kunnamkulam*): I too have no objection.

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*): If the House is agreed I am agreeable not to move the first part of my amendment namely, "All suits for eviction of verumpattamdars instituted after 1st Kumbham 1114, whether pending disposal or already disposed of finally shall be decided or deemed to be decided under the provisions of this Act."

Mr. M. Sivarama Menon (*Advocate-General*): Why should you omit that?

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*): If the House is agreeable, the wording can be what is contained in the amendment moved by the Hon'ble Member for Kunnamkulam: "Provided that all suits for eviction of Verumpattamdars instituted after the 1st Kumbham 1114, the rights and obligations of the parties concerned shall be regulated by the provisions of this Act whether decrees have been passed in such suits or not."

This wording has got a superior merit inasmuch as it is nothing but a copy of the well-considered Select Committee Report, and the redrafted Bill of 1114. Therefore, it had better consideration in its wording than the poor attempt made by me. If the House is agreeable, in place of clause 3 which I wanted to introduce, I would request the Hon'ble President to have the wording of the amendment No. 1. If clause 3 in my amendment is replaced by the 1st amendment, then there remain only clauses 4 and 5. Now Sir, I believe I have answered the Hon'ble Member for Cranganur by informing him what exactly I meant by the wording and what was sought to be achieved by it. The other point raised by Mr. Bhaskara Menon was that a Bill should not ordinarily be given retrospective effect. The first point raised by the Hon'ble mover of the Bill, the learned Diwan Peishkar was also to the same effect. A joint reply to both the Hon'ble the Diwan Peishkar and also to my friend the Hon'ble Member for Cranganur for what is stated by them both is that they themselves admit that in case where tremendous hardship would follow by not giving retrospective effect, the same may be done. So the only question is whether there are hard cases justifying the grant of retrospective effect to the Bill. I would have been extremely happy if the Hon'ble the Advocate General had been helpful in that behalf. If information could have been gathered by him and supplied to us especially with regard to my pointed question put to him when he was speaking for the Government, namely, what is the number of suits that had to be stayed as a result of the Proclamation III of 1117 it could have greatly helped the debate and materially affected the voting. The answer, I am sure the number will not be 1, 2 or 100 or a 1,000 for the simple reason that in the court where I am practising, I know more than 200 cases had to be tied up and kept pending. That is only one of the Munsiff's Courts. There are five or six such Munsiff's Courts and there are two District Courts also. Therefore if we had correct figures, we will certainly have a very clear idea as to the amount of harm done to various tenants who but for the suits in eviction between the 1st Kumbham 1114 and 13th Vrischigam 1117, that would have helped in deeming whether or not to give retrospective effect to the enactment. The statistics of suits that were filed subsequent to the 1st of Kumbham 1114 and before the date of the Proclamation, when collected I am sure, from my personal experience limited to only one of the way Civil courts in the State, will show a very large number of them will have been filed during the interim. The Proclamation graciously issued by His Highness the Maharaja cannot help those who have been actually evicted from their holdings. The Proclamation helps only those tenants sued in eviction whose cases were pending in the court of first instance or in the appellate courts. The number already evicted

can certainly not be small, for between 1st Kumbham 1114 and 13th Vrischigam 1117 the date of proclamation very nearly three years have gone by. The only way to protect these persons is to give retrospective effect to this beneficent piece of legislation.

Then, another point of opposition, and perhaps a more relevant thing on the face of it was from the Hon'ble the Revenue Member to the effect that the confidence of the law-abiding public will be shaken if the law of today is changed and the law of tomorrow is made to prevail even for yesterday. It may apparently appear to be something which may catch the imagination of persons who want to oppose the amendment, but there is no substance in it in this particular case. The effect of giving retrospective effect in cases where it is necessary is to change the law and to make the law of yesterday the law of today. What is passed today is made applicable to yesterday. That is the very effect of giving retrospective effect. That is nothing novel. That is the very implication contained in giving retrospective effect to any piece of legislation and any argument that that will shake the confidence of the public in the laws of the State and in the justice to be meted out is no argument at all. If really there is a case of hardship suffered at least by one individual you have to give him relief. And I have just pointed out there are very many cases like that. If only the Hon'ble Advocate-General will be pleased to gather statistics, we can understand the real magnitude of the hardship caused by the delay in continuing the Bill reported in 1115 and the delay in the issue of the Proclamation.

Then came the opposition from the Advocate General which I am glad to state was very helpful. I express my thanks to my friend for the assurance given that Government will be prepared review the position without however committing himself to that position. Certainly his influence and the influence of his office will be used to review the position if a real hardship has been realised. My friend the Hon'ble Member for Tattamangalam was pleased to extend his helping hand to support my amendment if I would be prepared to concede the case of eviction for self-cultivation, process which in the language of the Select Committee report, is abused beyond measure for which abuse the Committee could not devise an effective check and so omitted to have such a clause in the Bill. That is the thing which the Hon'ble Member for Tattamangalam wants me to give in exchange for his support. It will indeed be a very bad bargain to strike in order to get his support.

Rao Sahib I. N. Menon (*Director of Public Instruction*): It is a genuine case.

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*): It is that word 'genuine or bonafide' that helps the tyrannous jenmi to take the land out of the hands of the tenants. Although my learned friend, the Hon'ble Member for Chalakkudi may say that my acts are mere fooleries, although I would have myself committed blunders of various kinds I am not foolish enough to strike such a bargain with the Hon'ble Member for Thattamangalam incidentally, I may assure the House that I shall not move my amendment for allowing one acre to be surrendered for self cultivation.

Mr. T. S. Ramachandra Ayyar (*Chittur-Tattamangalam*): Your friend is not alone.

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*): I know there are other persons like you. I am aware of their existence; I am aware of their strength and their support. I am also aware of the result of that support. Then, there was the opposition from the representative of the Jenmis which I can appreciate and applaud. He is here to protect the interests of the landlords even imaginery ones though they may be prejudicial to the tenants. He has done his duty and I have no more reply to give to his observations. I am glad to find that many of the Hon'ble Members of this House have been pleased to support the amendment which is one tabled on behalf of and to benefit the tenantry at large. It is for the Hon'ble President to decide how the proposition is to be put. My suggestion is, amendment No. 1 of Mr. Iyyu may be passed as it is. Then of the amendment No. 2 consisting of sub-clauses 3, 4 and 5, I may be allowed to withdraw the first portion of the amendment *viz.*, clause 3 and I may be allowed to move sub-clauses 4 and 5 of my amendment No. 2 as sub-clauses 3 and 4. That is the proposition which the Hon'ble President may be pleased to be put to the vote of the House.

Deputy President: Mr Iyyu's amendment will be as a provision. 3 will be omitted, and 4 and 5 will be numbered 3 and 4. Amendment put and lost.

Mr. P. Kumaran Ezhuthassan (*Vadakkancheri*) A poll, Sir.

Ayes

1. Mrs. Joshua
2. Mr. M. K. Devassy
3. Mr. K. R. Ramakrishnan
4. Mr. K. Kunhirama Menon
5. Mr. C. K. Nayar
6. Mr. C. V. Iyyu
7. Mr. M. Krishna Menon
8. Mr. P. Kumaran Ezhuthassan
9. Mr. K. Narayana Menon

10. Mr. Kunjipalu A. T.
11. Mr. K. S. Panikker
12. Mr. K. M. Ibrahim
13. Mr. K. T. Achyutan
14. Mr. K. R. Achyutan
15. Mr. B. M. Peter
16. Mr. P. P. Devassy
17. Mr. C. K. S. Mony
18. Mr. P. K. Krishnan

Noes

1. Mr. A. B. Salem
2. Mr. A. V. Moothedan
3. Mr. T. S. Ramachandra Ayyar
4. Mr. Ephraim Joseph
5. Mr. Ittiravi Namboodiri
6. Mr. E. Kunjan Nambooripad
7. Mr. K. Ashtamoorthi Nambooridad
8. Mr. T. A. Ramachandra Ayyar
9. Mr. N. Govinda Pai
10. Mr. V. N. Subbarayan Chettiar
11. Mr. V. K. Bhaskara Menon

12. Mr. V. N. Damodaran Nambiar
13. Mr. P. V. Raphael
14. Mr. V. K. Aravindakhsa Menon
15. Rao Sahib I. N. Menon
16. Rao Sahib Dr. T. Verghese
17. Khan Sahib Y. Muhammad Roshan Sahib Bahadur
18. Mr. A. Madhava Prabhu
19. Rama Varmah Tampuran
20. Mr. M. Sivarama Menon
21. Mr. M. M. Paul
22. Mr. K. Narayana Menon
23. Mr. Parambi Lonappan

The House rose at 4-15 p.m., as there was notice of an A. R. P. Practice between 4-30 and 5-30 p.m.

N. S. RADHAKRISHNA SARMA

Secretary to the Council

APPENDIX I

Statement referred to against section (a) of the question

No.	Hindi Pandit of	Native place
1.	Maharaja's College, Ernakulam	.. Elangunnapula
2.	High School, Thiruvilwamala	.. Perinbalam (Travancore)
3.	High School, Ollur and Vivekodayam H. S., Trichur	.. Shoranur (British)
4.	H. S., Chittur and V. G. S., Chittur	.. Edavanakad
5.	High School, Kandassankadavu	.. Palluruthy
6.	H. S., Kunnankulam and G. H. School, Kunnankulam	.. Trippunittura
7.	H. S., Irinjalakkuda and G. H. School, Irinjalakkuda	.. Irinjalakkuda
8.	H. S., Trichur and V. G. School, Trichur	.. Pallippuram (Travancore)
9.	C. N. N. H. S., Cherpu	.. Perumpillissery
10.	S. H. C. H. S., Trichur and C. M. S. H. S., Trichur	.. Elangunnapula
11.	St. Thomas' H. S., Trichur	.. Irinjalakkuda
12.	S. R. K. G. Vidyamandir, Vilangans	.. Choorakkattukara
13.	H. S., Pudukad	.. Sreemoolanagaram
14.	St. Thomas' College, Trichur	.. Chenganachery
15.	H. S., Trippunittura and G. H. S., Trippunittura	.. Perimbalam (Travancore)
16.	S. R. V. H. S., Ernakulam and G. H. S., Ernakulam	.. Kollengode
17.	H. S., Chalakkudi and S. H. C. G. H. S., Chalakkudi	.. Perimbalam (Travancore)
18.	T. D. H. S., Cochin	.. Ernakulam
19.	St. Peter's H. S., Kumbalanghi	.. Kumbalam
20.	St. Sebastian's H. S., Palluruthy	.. Palluruthy
21.	S. H. H. S., Thevara and St. Albert's H. S., Ernakulam	.. Amballur
22.	O. L. G. H. School, Palluruthy	.. Trippunittura

APPENDIX II

THE COCHIN VERUMPATTAMDARS BILL

(As modified by the Select Committee)

Preamble.—Whereas it is deemed expedient to confer on certain terms and conditions, fixity of tenure to *verumpattam* tenants; It is hereby enacted as follows.—

1. *Short title, extent and commencement.*—(1) This Act may be called the Cochin Verumpattamdars Act.....of 111....

(2) It extends to the whole of Cochin and shall come into force at once.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(a) "*Kudikidappukaran*" means a person who has been permitted to have the use and occupation of a portion of a property for the purpose of erecting a homestead with or without an obligation to pay rent for the use and occupation of the site so given;

(b) "*Kudiyirippu*" means and includes the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and the easements attached thereto;

(c) "*pattam*" includes *puravaka* dues, if any, payable under the contract of tenancy and the enhanced revenue, cess, tax or other special charges mentioned in section 6; and

(d) "*verumpattamdar*" means a lessee or sub-lessee of immoveable property who has contracted to hold the same under a lease with or without *muppattam* either as a tenant at will or during a fixed term and includes a *tharikuthukaran* of the Chittur Taluk, but does not include a holder of a *kanam*, *nerkanam*, *olli*, *adima*, *anubhogam*, and other cognate tenures or a *varam* or a *pankupattam* tenant or a *kudikidappukaran*.

3. *Application.*—This Act shall not apply to—

(a) lands owned by Government; or

(b) leases granted by a usufructuary mortgagee or by any person holding under or deriving interest from him; or

(c) leases of any building owned by a landlord including a house, shop or warehouse and the site thereof, together with the garden or land appurtenant thereto; or

(d) leases of land or of buildings or of both for industrial or commercial purposes; or

(e) leases of land or buildings or of both in the Willingdon Island, or

(f) leases of land other than lands used for the cultivation of paddy within the Municipalities constituted under section 4 of the Cochin Municipal Act, XVIII of 1113.

4. *Verumpattamdar to have fixity of tenure.*—Notwithstanding any law, custom or contract to the contrary, every *verumpattamdar* shall have fixity of tenure in respect of his holding and shall not be evicted therefrom except as provided in section 8 of this Act.

5. *Amount of pattam.*—(1) Subject to any remission to which a *verumpattamdar* may be entitled to under the provisions of this Act, the *pattam* payable by a *verumpattamdar* in respect of his holding under the contract of tenancy subsisting at the commencement of this Act, shall not be enhanced or reduced on any account whatsoever.

(2) In the absence of any express stipulation to pay rent in the contract of tenancy, a *tharikuthukaran* of the Chittur Taluk shall be liable to pay to his lessor an annual *pattam* calculated at the rate of one anna per cent of land comprised in his holding.

6. *Liability for tax, etc.*—As between a *verumpattamdar* and his lessor, the latter shall, in the absence of any custom, or contract to the contrary, be liable for the revenue, cess or tax payable to Government or to any local authority prior to the commencement of the Act; but the former shall be liable for—

(a) any enhancement subsequent to the commencement of this Act in the revenue, cess, or tax payable to Government or to any local authority;

(b) any special charges leviable by Government for special or additional crops raised on *nilams*;

(c) any special charges payable to Government in connection with survey or settlement operations or for the maintenance of survey marks.

7. *Verumpattamdar's right to remission of pattam in proportion to remission of revenue.*—

(1) Where the land revenue payable for any year in respect of any land comprised in a *verumpattam* holding is remitted in whole or in part by Government, the *verumpattamdar* shall be entitled to a remission of the *pattam* payable by him for that year in the same proportion. If the *verumpattamdar* is liable under the contract of tenancy to pay the land revenue he shall also be entitled to a remission of the land revenue remitted by Government.

(2) If no land revenue is payable to Government in respect of any land comprised in the holding the Diwan Peishkar on an application made to him by the *verumpattamdar* may order the remission of so much of the *pattam* as would have been remitted under sub-section (1) had such land been charged with the payment of land revenue. The decision of the Diwan Peishkar shall be final and the *verumpattamdar* shall be entitled to get the benefit of the remission so ordered from his lessor.

8. *Grounds for eviction of verumpattamdar.*—(1) No suit for eviction of a *verumpattamdar* from his holding or any portion thereof shall lie except on the following grounds—

(a) that he has wilfully denied the title of the *jenmi* or of any intermediate landlord between himself and the *jenmi* before the date of such suit;

Explanation.—A denial of title under a *bonafide* mistake of fact is not wilful within the meaning of this clause.

(b) that he has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding ;

(c) that he has not paid the entire *pattam* due in respect of the holding or the revenue, cess, tax or special charges, if any, specified in section 6 within three months of the due date as provided in the contract of tenancy or where no date is fixed in the contract, within three months from the due date specified in section 38 of the Cochin Tenancy Act, XV of 1113 ;

(d) that he has not paid within 6 months from the commencement of this Act the entire arrears of *pattam*, if any, due in respect of the holding on the 1st day of Chingam 1117:

Provided that a *verumpattamdar* whose arrears of *pattam* has been scaled down under section 16 of the Cochin Agriculturists' Relief Act, XVIII of 1114, shall be liable to be evicted on this ground only if the arrears are not paid on or before the date fixed for the payment of each instalment by the Cochin Agriculturists' Relief Act, XVIII of 1114, as modified by Proclamation, III of 1117.

(e) that he has intentionally or otherwise allowed a stranger to encroach on the holding or part thereof adversely to the interests of the *jenmi* or any intermediate landlord between himself and the *jenmi*.

(f) that the lessor requires the holding or part thereof, except the *Kudiyiruppu*, *bonafide* for building purposes for himself or for any member of his family or *tarwad* or *thavazhi* who has a beneficial or proprietary interest therein :

Provided that in cases falling under clauses (e) and (f) where only a part of the holding has been encroached upon or is required, as the case may be, the eviction shall be from such part of the holding only.

Explanation.—The wife or husband and the children of the lessor shall be deemed to be members of the lessor's family having a beneficial and proprietary interest in the holding.

(2) When the eviction of a *verumpattamdar* is sought on the ground specified in clause (c) or (d) of sub-section (1), the court shall not either extend the time for or condone the delay in the payment of such *pattam* or arrears, but shall be bound to order the eviction of the *verumpattamdar* from the holding.

(3) (i) In any case in which eviction has been obtained on the ground mentioned in clause (f) of sub-section (1), the *verumpattamdar* shall be entitled to sue for the restoration to him of the possession of all the lands from which he has been evicted and to hold them with all the rights and subject to all the liabilities of a *verumpattamdar* if the lessor who has obtained such eviction transfers any of the land to any person on any kind of lease or mortgage with possession or on *kanam* within five years of such eviction or if the building for constructing which the eviction was obtained is not erected on the land within five years of the eviction.

(ii) A suit for restoration on the ground of failure to erect the building shall be instituted within one year from the date of the expiry of five years after eviction and a suit for restoration on the ground of transfer of possession shall be instituted within one year from the date of the transfer.

9. (1) *Notice to jenmi and landlord for sub-leasing a verumpattam holding.*—Where a *verumpattamdar* has transferred or sub-leased the holding or any portion thereof, the transferee or sub-lessee shall, within a month from the date of the commencement of this Act, and where such transfer or sub-lease is after the commencement of this Act, the transferee or sub-lessee shall, within a month from the date of such transfer or sub-lease, give registered notice of the transfer or sub-lease to the *jenmi* and to all intermediate landlords between the *jenmi* and his transferor or lessor. The said notice shall contain particulars of the property, transferred or leased, its extent, the terms and the date of the transfer or lease and the terms of the lease.

Failure to give such notice shall disentitle the transferee sub-lessee from securing the condonation of the forfeiture under sub-section (2).

(2) Where default is made by a *verumpattamdar* in the payment of *pattam* or arrears of *pattam* under clauses (c) and (d) of section 8, his lessor shall give registered notice of the default to the persons who have notified the existence of a transfer or sub-lease under sub-section (1). The sub-lessees in the order of priority of their leases and the transferees shall have the right to get the forfeiture condoned on payment of the arrears within a period of one month from the date of service of the notice of default given by the lessor. The lessor shall be bound to receive such payment and the liability of the sub-lessee to his lessor for payment of *pattam* or arrears shall be reduced to the extent of the payment made by him:

Provided that where the transfer or lease is only of a portion of the holding, the transferee or sub-lessee shall be bound to pay only so much of the *pattam* or arrears of *pattam* as will on apportionment fall on his holding. In the absence of agreement such apportionment shall be made by the court on application made to it by the transferee or sub-lessee within 10 days of the service of the notice of default given by the lessor. The time between the date of the petition and the date of the final order shall be excluded from the period of one month specified in sub-section (2).

(3) All applications for apportionment under the proviso to sub-section (2) shall be made to the court of the District Munsiff within whose jurisdiction the property is situate. The order of apportionment shall have the force of a decree and be appealable as such.

(4) The sub-lessee who makes payment under sub-section (2) shall have a charge in respect of the amount paid by him over the interest of the lessee who committed the default and the interests of all intermediate landlords between such lessee and himself.

10. *Conditions of surrender of holding.*—A *verumpattamdar* may surrender the holding to his lessor where he has not sub-leased the holding, provided—

(1) one month's notice of his intention to do so has been given in writing to the landlord;

(2) no portion of the holding is excluded except as the result of irresistible force;

(3) the arrears of *pattam* and other accrued dues are tendered;

(4) the value or utility of the holding has not been materially and permanently impaired during the tenancy by acts of waste.

The lessor shall be bound to accept the surrender but shall not be liable to pay the value of improvements, if any, which he would otherwise be bound to pay under the provisions of the Cochin Tenancy Act, XV of 1113.

11. *Annulment of subsisting decrees for eviction on certain conditions.*—All decrees subsisting at the commencement of this Act for the eviction of a *verumpattamdar* from his holding shall be annulled if—

(1) the entire arrears of *pattam* due in respect of the holding is paid within the time and in accordance with the provisions contained in clause (d) of section 8, and

(2) the costs awarded under the decree and the costs, if any, incurred in execution proceedings are paid within six months from the commencement of this Act or where the decree is for the arrears of *pattam* scaled down under section 16 of the Cochin Agriculturists' Relief Act, XVIII of 1114, on or before the date specified for the payment of the last instalment of such arrears by the said Act as modified by Proclamation III of 1117.

12. *Suits and appeals stayed to be proceeded with only on failure to comply with section 8.*—

All suits and appeals for eviction instituted against *verumpattamdars* and stayed by Proclamation VI of 1117 shall be proceeded with only if default is made by the *verumpattamdar* to pay the arrears of *pattam* and costs of the plaintiff within the time and in accordance with the provisions contained in clause (d) of section 8.

13. *Apportionment of compensation in case of acquisition.*—Where land comprised in the holding of a *verumpattamdar* is acquired under the provisions of the Cochin Land Acquisition Act, II of 1070, the *jenmi* shall be entitled to get out of the land value awarded an amount equal to twenty times the *pattam* or *michavaram* or its equivalent in money or the full land value, whichever is less and the balance shall be apportioned amongst the persons interested in the land in accordance with such rules as may be prescribed by Government.

14. *The provisions of this Act to prevail.*—Where there is any conflict or inconsistency between the provisions of this Act and the provisions of the Cochin Transfer of Property Act, XVII of 1111, or the Cochin Tenancy Act, XV of 1113, the provisions of this Act shall prevail.

APPENDIX III

AMENDMENTS TO THE COCHIN VERUMPATTAMDARS BILL

Clause 1

Mr. C. V. Iyyu

1. Add as proviso to clause 1 (2) the following.—

“Provided that in all suits for eviction of Verumpattamdars instituted after the 1st Kumbham 1114, the rights and obligations of the parties concerned shall be regulated by the provisions of this Act whether decrees have been passed in such suits or not.”

Mr. P. Kumaran Ezhuthassan

2. Add the following after sub-clause (2) as sub-clauses (3), (4) and (5).—

“(3) All suits for eviction of Verumpattamdars instituted after 1st Kumbham 1114 (the first day of Kumbham one thousand one hundred and fourteen) whether pending disposal in any court or already disposed of finally, shall be decided or deemed to be decided under the provisions of this Act.

(4) Verumpattamdars already evicted from their holdings under decrees in suits instituted after 1st Kumbham 1114, shall have the right to claim back such holdings on payment to the lessor of any value of improvements received on eviction and also the value of improvements effected, if any, by the lessor subsequent to eviction.

(5) Suits to enforce the rights under clause (4) shall be instituted within one year from the commencement of this Act.”

Clause 2

The Diwan Peishkar

3. In sub-clause (b) of clause 2 delete the words “and includes.”

Mr. P. Kumaran Ezhuthassan

4. Add the words “orally or in writing” between the words “contracted” and “to” in clause (d).

Mr. C. K. Nayar

5. In clause 2 (d) for the words “a lease” substitute the words “an oral or documentary lease.”

The Diwan Peishkar

6. In sub-clause (d) of clause 2 for the words “during a fixed term” the words “for a term” shall be substituted.

Mr. P. Kumaran Ezhuthassan

7. Add a proviso as follows after sub-clause (d).—

“Provided that Varam and Pankupattam arrangements created after 1st Kumbham 1114 of holdings which were Verumpattam tenures before the said date shall be considered as Verumpattam tenures.

Exception.—Varam and Pankupattam tenures granted by Receivers appointed by Courts of Law shall not be affected by this proviso.”

Mr. C. V. Iyyu

8. Add as sub-clause (e) the following.—

“Customary Verumpattamdar or Pattacharthudar means any Verumpattamdar who is entitled by custom of the locality in which the land is situate to possession of the said land for a definite period of years and for whose continuance thereon after the termination of that period, for a further period, a renewal fee has to be paid to the landlord (lessor) as an incident of the tenure.”

Clause 3

Mr. C. K. Nayar

9. In clause 3 (a) after the word “Government” add the words “other than those held under Pandaravaka Verumpattam tenure.”

Mr. P. Kumaran Ezhuthassan

10. Delete the semi-colon at the end of (b) and add the following before “or”.—“Except in cases where the property usufructurally mortgaged has been outstanding on lease at the time of the usufructuary mortgage and such lease is allowed to be continued under the usufructuary mortgage.”

Mr. C. V. Iyyu

11. Add the following as explanation to sub-clause (c).—

"When in a Non-municipal area a Verumpattam land and the building or buildings on it are leased out on Verumpattam to the same person and the occupation of the building or buildings is essential for the enjoyment and cultivation of the land such person shall have fixity of tenure both in respect of the land and building or buildings, provided the Verumpattamdar makes himself liable to pay to his lessor at the latter's demand the cost of all the improvements if any made by the (Landlord) lessor before the execution of the Verumpattam deed."

Mr. P. Kumaran Ezhuthassan

12. Delete sub-clause (f).

The Diwan Peishkar

13. In sub-clause (f) of clause 3—(a) the words "other than lands used for the cultivation of paddy" shall be deleted; and (b) the following shall be added at the end.—

"except to lands used for the cultivation of paddy so long as such lands are not converted into garden lands or parambas."

Mr. C. K. Nayar

14. In sub-clause (f) between the words "paddy" and "within" insert the words "or lands held by a Tharikuthukaran."

Clause 4

Mr. C. K. Nayar

15. To clause 4 the following proviso shall be added namely.—

"Provided that a person who has been given only the right to take the usufructs in a garden shall not have fixity of tenure."

Mr. C. V. Iyyu

16. Renumber clause 4 as clause (1) and in the clause as so re-numbered between the words "contrary" and "every" insert the words "entered into whether before or after the coming into force of this Act"; and add the following as sub-clause (2).—

"No agreement or contract entered into between the lessor and a Verumpattamdar subsequent to 1st Kumbham 1114 and before the commencement of this Act, which has the effect of so changing the nature of the tenancy as to deprive the latter of the fixity of tenure provided under this Act shall be binding on the Verumpattamdar."

Clause 5

The Diwan Peishkar

17. For sub-clause (1) of clause 5 the following shall be substituted.—

"5. (1) Subject to sub-section (2) and to any remission to which a Verumpattamdar may be entitled under the provisions of this Act the Pattam payable by him in respect of his holding under the contract of tenancy shall not be enhanced or reduced except by mutual agreement.

(2) Where cocoanut is the major produce of a garden land and the Pattam fixed therefor under the contract of tenancy is payable in money, the Verumpattamdar shall, in respect of the Pattam accruing due after the commencement of this Act, be liable to pay it in kind computed on the basis of the market value of cocoanuts prevailing on the date of the contract of tenancy or the money value thereof computed at the market rate prevailing on the date on which such Pattam accrues due.

(3) The market rate for cocoanuts for the purpose of sub-section (2) shall be the market rates published from time to time under the provisions of the Cochin Tenancy Acts, II of 1090, and XV of 1113 and for any period for which no such rates are published, such rates as Government may by notification in the Cochin Government Gazette specify in this behalf."

Mr. A. V. Moothedan

18. At the end of sub-clause (1) of clause 5 of the Bill, add the following proviso.—

"Provided that where Pattam is payable in money in the case of contracts of tenancy, in respect of cocoanut gardens, subsisting before the first Chingam 1107, the Pattam payable after the commencement of this Act shall be calculated as follows.—

25	X Pattam fixed by the contract of
price of 1,000 cocoanuts on the date of the commencement	Tenancy.
of the lease.	

Illustrations.—A enters into a contract with B for the lease of a cocoanut garden on 1st Chingam 1095 and the Pattam fixed is Rs. 75. The price of 1,000 cocoanuts is Rs. 60 on 1st Chingam 1095. The Pattam payable after the commencement of the Act shall be Rs. $25/60 \times 75$."

Mr. C. V. Iyyu

19. Delete the words "this Act" after the word "of" in the 6th line of sub-clause (1) and substitute the words "Kumbham 1114."

Mr. P. Kumaran Ezhuthassan

20. Add the following at the end of sub-clause (1).—

"Except on leases of land other than lands used for the cultivation of paddy within the Municipalities constituted under section 4 of the Cochin Municipal Act, XVIII of 1113".

Mr. C. K. Nayar

21. In clause 5—at the end of sub-clause (1) add the following.—

"Provided that in respect of gardens, both on the expiry of 5 years after the commencement of this Act, and on the expiry of 5 years after the planted cocoanut trees have begun to yield fruits, the landlord shall have the right to renew the rent".

Mr. C. K. Nayar

22. After sub-clause (1) insert the following as a new sub-clause. —

"If the Verumpattam holding is fit for improvement by clearing and turning the soil and by the planting of cocoanut trees in the garden, the Verumpattamdar shall effect such improvement and plant such trees. If he does not do so of his own accord, the landlord shall have the right to ask him by means of a registered notice to do so, and if, within one year from the date of the receipt of such notice, the Verumpattamdar has neither effected any improvement nor planted any cocoanut tree, the landlord shall have the right to do those things himself. In such cases the rent shall be fixed as follows.—

(a) If either the clearing and turning of the soil or the planting of cocoanut trees, or both are done, the rent for the place where the soil has been cleared and turned shall be half the rent obtaining in the neighbourhood and the rent for the place where such trees have been planted shall be half the rent which would be due according to the prevailing rates when the trees begin to yield fruits.

(b) If the above works are done by the landlord himself, the rent due in both cases, according to the prevailing rates, may be added on to the original rent. The tenant, in cases falling under (a) and the landlord, in cases falling under (b) shall be liable to pay the enhanced tax."

Mr. P. Kumaran Ezhuthassan

23. Delete all the words in sub-clause (2) commencing with "one anna" and add instead "3 pies per cent of land comprised in his holding or the land revenue whichever is less."

Mr. C. V. Iyyu

24. Add the following at the end of sub-clause (2).—

"in order to be entitled to the full rights of a Verumpattamdar under this Act"

Mr. C. K. Nayar

25. Add the following as a new sub-clause.—

"The landlord shall be bound to pay proper receipt for the rent received by him, and if he fails to fulfil this obligation or the tenant is convinced that the landlord will not fulfil this obligation, the tenant shall have the right to send to the landlord by Money Order the money value of the rent according to the rates published in the Gazette".

Clause 6

Mr. P. Kumaran Ezhuthassan

26. Delete the words "any custom or" between the words "of" and "contract" in line 2 and insert the word "a" before the word "contract".

The Diwan Peishkar

27. In clause 6 the words "prior to the commencement of the Act" shall be deleted.

Clause 7

Mr. K. Ashtamoorthi Nambudiripad

28. In clause 7 (1) add the words "due to failure of crops" after the word "Government"

Addition of new clause after clause 7

Mr. K. Ashtamoorthi Nambudiripad

29. After clause 7, add another new clause and renumber the rest.

"Landlord's right to advance of one year's rent or security for such rent—A landlord may, at any time, by notice in writing call upon his Verumpattamdar, who has defaulted for one year to pay the rent, at the latter's option.—

(a) to pay in advance in respect of the holding one year's rent,

(b) to furnish security for the said rent, or

(c) to pay a portion of the said rent in advance and furnish security for the balance.

(2) If, within a period of one month from the date of the service of notice upon him under sub-section (1) the Verumpattamdar fails to pay the advance or furnish the security demanded by the landlord, the landlord may apply to the Court in the form prescribed, for an order to direct the Verumpattamdar, at the latter's option.—

(a) to pay one year's rent of the holding in advance.

(b) to furnish security for the said rent, or

(c) to pay a portion of the said rent in advance and furnish security for the balance.

(3) On the receipt of an application under sub-section (2), the Court shall issue notice to the Verumpattamdar and, if satisfied after enquiry that the tenant has not compelled with any of the provisions of sub-section (2), order the Verumpattamdar, at the latter's option.—

(a) to pay one year's rent of the holding in advance, or

(b) to furnish security for the said rent, or

(c) to pay a portion of the said rent in advance and furnish security for the balance, within such date as the court may fix.

(4) Where the Verumpattamdar has already paid a portion of one year's rent of the holding in advance, or furnished security for a portion of the said rent, the provisions of sub-sections (1) to (3) shall apply in respect of the balance of such rent.

(5) Any advance of rent paid by a Verumpattamdar to his landlord, whether before or after a demand under sub-section (1) or deposited by him for such payment under clause (i) of sub-section (4) of section 9, shall bear interest at three per cent per annum from the date of payment or from the date of service of notice of such deposit through court as the case may be."

Mr. C. V. Iyyu

30. After clause 7 insert the following as a new clause.—

"8(1) A lessor may, at any time, by notice in writing call upon his Verumpattamdar, who makes default in the payment of Pattam on the due date after the coming into force of this Act at the latter's option.—

(a) to pay in advance in respect of the holding one year's Pattam.

(b) to furnish security for the said Pattam, or

(c) to pay a portion of the said Pattam in advance and furnish security for the balance.

(2) If within a period of one month from the date of serving of notice upon him under sub-section (1) the Verumpattamdar fails to clear all arrears of the current year's Pattam due as default or furnish security demanded for the defaulted Pattam and for the advance demanded by the lessor, the lessor may apply to the court in the form prescribed for an order to direct the Verumpattamdar at the former's option.—

(a) to clear all arrears of Pattam due for the current year with simple interest at the rate of 6 per cent per annum from the defaulted date with all court costs at the same rate of interest, or

(b) to furnish security for all the amount due to the lessor by the Verumpattamdar as referred to in (a) above, or

(c) to pay a portion of the said Pattam in advance and furnish security for the balance.

(3) On receipt of an application under sub-section (2) the court shall issue notice to the Verumpattamdar and if satisfied after enquiry that the Verumpattamdar has not complied with any of the provisions of the sub-section (2), order the Verumpattamdar at the former's option.—

(a) to clear all arrears of Pattam due for the current year with simple interest at the rate of 6 per cent per annum from the defaulted date with all court costs at the same rate of interest, or

(b) to furnish security for all the amount due to the lessor by the Verumpattamdar as referred in (a) above, or

(c) to pay a portion of the said pattam in advance and furnish security for the balance within such date as the court may fix.

(4) Where the Verumpattamdar has already paid a portion of one year's Pattam of the holding in advance or furnished security for a portion of the said Pattam, the provisions of sub-sections (1) to (3) shall apply in respect of the balance of such Pattam.

(5) Any advance of Pattam paid by a Verumpattamdar to his lessor whether before or after a demand under sub-section (1) or deposited by him for such payment under clause (1) of sub-section (2) of section 10, shall bear interest at 6 per cent per annum from the date of payment or from the date of service of notice of such deposit through court as the case may be".

Mr. C. V. Iyyu

31. Insert the following as clause 9.—

"Arrears of pattam due, if any, in respect of the holding of a Verumpattamdar due on the 1st day of Chingam 1118 may be paid in 6 equal half yearly instalments, the 1st instalment falling due by the end of the sixth month after the coming into force of this Act".

Clause 8

Mr. A. V. Moothedan

32. In sub-clause (c) of clause 8 (1) after the figure "6" delete all the words and figures and add the words "before the last day of Karkadagam of each year".

Mr. P. Kumaran Ezhuthassan

33. In clause 8 (1) (c) add at the end of the words "subject to the provisions of section 9".

Mr. C. V. Iyyu

34. Substitute the following for clause (d) without changing the proviso.—

"that he has defaulted in the payment of one-sixth of the entire arrears of pattam, if any, due in respect of the holding on the 1st day of Chingam 1117 within 6 months of the commencement of this Act or any of the succeeding five half-yearly instalments before the expiry of each subsequent half-year as specified in sub-section 9".

Mr. A. V. Moothedan

35. In sub-clause (d) substitute "one year" for "6 months".

The Diwan Peishkar

36. In sub-clause (d) for the figure "1117" substitute the figure "1118".

Mr. P. Kumaran Ezhuthassan

37. At the end of sub-clause (d) add the words "subject to the provisions of section 9".

Mr. A. V. Moothedan

38. Add the following as Second Proviso, to sub-clauses (c) and (d) in clause 8.—

Provided further that a Verumpattamdar holding under a lease for a fixed period, shall not be liable to be evicted before the expiration of the said period, even if payments are not made in accordance with clauses (c) and (d).

Mr. P. Kumaran Ezhuthassan

39. Delete the words "or otherwise" between the words "intentionally" and "allowed" in clause (e).

Mr. C. V. Iyyu

40. Add the following proviso to clause (e).—

"Provided that in cases where only a part of the holding has been encroached upon the eviction may be from such part of the holding only".

Mr. C. V. Iyyu

41. Substitute clause (f) as follows.—

"That the tenant has not complied with the order of the Court under sub-section (3) of section (8)".

Mr. M. K. Devassy

42. Add "at the end of the agricultural year" between the words "that" and "the lessor" in clause 8 (1) (f).

The Diwan Peishkar

43. In sub-clause (f) for the word "lessor" the words "jenmi or any intermediate landlord" shall be substituted.

Mr. M. K. Devassy

44. Substitute the words "residential quarters for the use of himself or" for the words "purposes for himself or for" in clause 8 (1) (f).

Mr. P. Kumaran Ezhuthassan

45. Substitute the words "for constructing a dwelling house" for the words "for building purposes" between the words "bonafide" and "for" in clause (f).

Messrs. P. Kumaran Ezhuthassan and C. K. Nayar

46. Add a new sub-clause as follows.—

"(g) that the lessor, where the land comprised in the holding is either one acre or less and the lessor has no other lands for cultivation, requires the holding for his own cultivation";

Mr. K. Ashtamoorthi Nambudiripad

47. Add a new sub-clause (g) before the proviso.

"(g) that at the end of an agricultural year, the lessor (other than a charitable or religious body such as Devaswam, Mosque, Sabhayogam or Mutt), requires the holding *Bona-fide* for his own cultivation or for that of any member of his family or tarawad or thavazhi who has a proprietary and beneficial interest therein".

Mr. K. Ashtamoorthi Nambudiripad

48. In the proviso substitute "(e), (f) and (g)" for "(e) and (f)".

Mr. K. Ashtamoorthi Nambudiripad

49. Add another sub-clause (h) as follows.—

"(h) that the tenant has not complied with the order of the court under sub-section (3) of section 8".

Mr. C. K. Nayar

50. In clause 8 (1) the following sub-clause shall be added.—

"(h) that the Verumpattam right of any person has to be partitioned among his claimants".

Mr. M. K. Devassy

51. Delete the whole of clause 8 (2) and substitute "in any suit in which eviction is claimed on the ground specified in clauses (c) and (d) of section 8, sub-section (1) if the tenant deposits in court for payment to the plaintiff in the suit (i) the amount of rent due with interest thereon at 6 per cent per annum or at the contract rate of the interest whichever is lower, (ii) interest on the principal amount of the rent due at 6 per cent per annum from the date of suit up to the date of deposit, and (iii) the costs of the plaintiff up to that date, the court shall dismiss the suit".

Mr. C. V. Iyyu

52. For sub-clause (2) substitute the following.—

"(2) (a) In any suit in which eviction is claimed on the ground specified in clauses (c) and (d) of sub-section (1) of this section if the Verumpattamdar deposits in court, for payment to the plaintiff in the suit (i) the amount of Pattam due with interest thereon at six per cent per annum from the date of suit up to the date of deposit and

(ii) the cost of the plaintiff up to that date the court shall dismiss the suit.

(b) In any suit in which eviction is claimed on the ground specified in clause (f) of sub-section (1) of this section, if the Verumpattamdar.—

(i) (a) deposits in court for payment to the plaintiff in the suit one year's pattam of the holding in advance or furnishes security for the same, or deposits in court for such payment a portion of pattam and furnishes security for the remainder, or

(b) where he has already paid a portion of the said pattam or furnished security for a portion thereof deposits in court for payment to the plaintiff the balance of the said pattam or furnishes security for such balance or deposits in court for such payment a portion of such balance and furnishes security for the remainder, and

(ii) deposits in court for payment to the plaintiff the costs of the latter up to the date of deposit the court shall dismiss the suit".

Mr. P. Kumaran Ezhuthassan

53. Delete the portion appearing in sub-clause 2 after the words "sub-section (1)" and add instead "the court shall apply the provisions of section 111 of the Transfer of Property Act, XVII of 1111".

Mr. C. V. Iyyu

54. Delete the whole of sub-clause (3) of section (8).

Messrs. K. Ashtamoorthi Nambudiripad, P. Kumaran Ezhuthassan and C. K. Nayar

55. In clause 8 (3) (i) for the words "in clause (f)" substitute the words "in clause (f) or (g)".

Mr. M. K. Devassy

56. Substitute "one year" for "five years" in clause 8, sub-clause (3) (i).

Mr. P. Kumaran Ezhuthassan

57. Change the words "five years of" into "at any time after" in sub-clause (3) (i).

Mr. P. Kumaran Ezhuthassan

58. Change the words "five years" in the last line into "two years" in sub-clause (3) (i).

Messrs. M. K. Devassy and C. K. Nayar

59. Substitute "one year" for "five years" in sub-clause (3) (ii).

Mr. P. Kumaran Ezhuthassan

60. Change "five years" into "two years" in sub-clause (3) (ii).

Mr. Ashtamoorthi Nambudiripad

61. Add as a new sub-clause (4)—

"(4) In any suit in which eviction is claimed on the ground specified in sub-section (1) (h) of section 9, if the tenant—

(i) (a) deposits in court for payment to the plaintiff in the suit one year's rent of the holding in advance or furnishes security for the same or deposits in court for such payment a portion of such rent and furnishes security for the remainder, or

(b) where he has already paid a portion of the said rent or furnished security for a portion thereof, deposits in court for payment to the plaintiff the balance of the said rent or furnishes security for such balance or deposits in court for such payment a portion of such balance and furnishes security for the remainder; and

(ii) deposits in court for payment to the plaintiff the costs of the latter up to the date of deposit;

the court shall dismiss the suit."

Clause 9

Mr. P. Kumaran Ezhuthassan

62. Substitute the following for sub-clause (1).—

"Where the interest of a Verumpattamdar has, by transfer voluntary or otherwise or by operation of Law, become vested in others, either wholly or in part, such person or persons in whom the right subsists at the commencement of this Act, and where such transfer is after the commencement of this Act, the transferee shall, within a month from the date of transfer, give registered notice of the transfer to the Jenmi and to all intermediate landlords between the Jenmi and the transferer. The said notice shall contain particulars of the property transferred, its extent, the terms and the date of the transfer. Failure to give such notice shall disentitle the transferee from securing the condonation of the forfeiture under sub-section (2)".

The Diwan Peishkar

63. In sub-clause (1) delete the words "the terms and" occurring between the words "its extent" and the words "the date"; and in the last sentence insert the word "or" between the words "transferee" and "sub-lessee".

Mr. P. Kumaran Ezhuthassan

64. In clause 9 (2)—

Change "lessor" in line 4 into "transferer".

Delete the words "or sub-lease" in line 6.

Change the words "sub-lessees" in line 7 into "transferees" and "leases" into "transfers" in line 8 and delete the words "and the transferees" in lines 8 and 9.

Change the words "one month" in line 11 into "three months".

Change the words "lessor" in lines 13 and 15 into "transferer" and the words "sub-lessee" into "transferee" in line 15.

Delete the words "or lease" in line 1 and "or sub-lessee" in lines 2 and 7 of the proviso.

The Diwan Peishkar

65. In clause 9—

In the proviso to sub-clause (2) for the word and figure "10 days" the words "one month" shall be substituted.

Mr. P. Kumaran Ezhuthassan

66. Change "10 days" into "one month" and "one month" into "3 months" and "lessor" into "transferer" in the proviso.

The Diwan Peishkar

67. In sub-clause (3) after the first sentence the following proviso shall be added.—

Provided that where Government is a party, all such applications shall be made to the District Court within whose jurisdiction the property is situate.

Mr. P. Kumaran Ezhuthassan

68. Change the words "sub-lessee" in line 1 clause 9 (4) into "transferee" and the word "lessee" in lines 4 and 6 into "transferer".

Clause 10

Mr. A. V. Moothedan

69. In clause 10 of the Bill, delete the whole of sub-clause (3) and renumber sub-clause (4) as sub-clause (3).

The Diwan Peishkar

70. In the last sentence of clause 10 between the words "surrender" and "but" the words "after giving credit to the Muppattam, if any, received" shall be inserted and the words "if any" shall be deleted.

Insertion of new clauses after clause 10

Mr. P. Kumaran Ezhuthassan

71. After clause 10 insert the following clauses.—

"11. *Verumpattamdar's right to a receipt.*—Every Verumpattamdar paying Pattam shall be entitled to a receipt specifying.—

- (a) a description of the holding in which it is paid.
- (b) the date of payment,
- (c) the amount paid,
- (d) the period to which the amount relates.
- (e) the arrears, if any, remaining due from the tenant after the said payment.

12. *Burden of proof in the absence of particulars.*—In the absence of the particulars specified in clause (e) of section 11 the burden of proving that the Verumpattamdar is bound to pay any arrears of Pattam which had accrued due previous to the date of the receipt shall be on the person claiming such arrears.

13. *Procedure when there is failure to grant receipt.*—If the lessor refuses or neglects to grant a receipt as specified in section 11, the Verumpattamdar shall be entitled to send, by money order, after deducting the charges for doing so.—

- (a) the money if the Pattam is payable in money,
- (b) the money value of the pattam if it is payable in kind.

Such money value shall be computed with reference to the rate published in the Cochin Government Gazette for the date on which the value is remitted or if no such value is published for that date at the rate for the next previous date for which a rate is published.

Government shall cause to be published in the Cochin Government Gazette every month the price of paddy, cocoanut, arecanut, pepper and such other produce at each Taluk Head Quarters by a Gazetted Officer."

Clause 11

Mr. C. V. Iyyu

72. In clause 11 for the word "at" substitute the word "from" and for the words "this Act" substitute the word and figure "Kumbham 1114".

Mr. P. Kumaran Ezhuthassan

73. In sub-clause (2) between "proceedings" and "are" add the following "in suits filed before (the date on which this Bill was introduced)."

Mr. A. V. Moothedan

74. In sub-clause (2) of clause 11 of the Bill, substitute the words "one year" for "six months."

Insertion of new clause after clause 12

Mr. C. V. Iyyu

75. After clause 12 insert the following clauses.—

"13. Notwithstanding any contract to the contrary express or implied, whether entered into before or after the coming into force of this Act no Verumpattamdar shall be liable to pay to his lessor anything more or anything else than what is payable under the provisions of this Act.

14. A customary Verumpattamdar or Pattacharthudar may himself at his own option on the expiry of the Verumpattam lease under which he holds may convert himself as a Verumpattamdar of the lessor under the provisions of this Act provided.—

(a) that the said Pattacharthudar or customary Verumpattamdar intimates to his lessor in writing by a registered notice of his willingness to do so in reply to a registered demand in writing of the lessor for the renewal of his lease.

(b) that the customary Verumpattamdar or Pattacharthudar is prepared to pay to his lessor one-twelfth of the renewal fee added with the Pattam every year if the lease is for 12 years or the annual portion of the renewal fee under the provisions of this Act arrived at by dividing the renewal fee by the number of years fixed for the renewal period in the lease deed.

15. A customary Verumpattamdar or Pattacharthudar unwilling to be converted as a Verumpattamdar under section 18 of this Act shall, on the expiry of the lease under which he holds be entitled to claim and the lessor shall be bound to grant a renewal enuring for a period of twelve years or more as the case may be as stipulated in the expiring lease deed, of the same, on payment to him the renewal fee specified under section 15 of this Act.

16. The renewal fee for a customary Verumpattamdar or Pattacharthudar shall be one year's pattam payable under the previous lease reducing the annual Government revenue in cases where the revenue is payable by such customary Verumpattamdar or Pattacharthudar.

17. Subject to the provisions of this Act all rights which a Verumpattamdar has in his holding shall be heritable and alienable.

18. Arrears of rent due to the lessor together with interest, if any, payable on the same shall be a charge on the interest of the person from whom they are due in the holding in respect of which they are due as at the time of the creation of such interest and such charge shall have

priority over all other charges on the same except the charge for the revenue and any dues thereon payable to Government or to local bodies or Municipalities and made a charge thereon by any law for the time being in force.

19. Every lease deed by which a lease is created and its counterpart shall contain —

- (a) the name if any, and description and extent of the holding;
- (b) the Government revenue, cesses and taxes, if any, payable in respect of the holding;
- (c) the amount of Pattam payable in respect of the holding;
- (d) the relation that any para or other measure according to which the rent has to be paid bears to the standard measure prescribed by Government.

20. The stamp and registration charges of any lease deed and for the counterpart of such lease shall be borne by the Verumpattamdar and the Lessor respectively.

21. The procedure provided as regards suits in the Cochin Code of Civil Procedure, 1111 including Orders XXXVII, XXXVIII and XXXIX of the First Schedule shall be followed as far as it can be made applicable in all proceedings relating to applications under this Act.

22. Pattam in this Act may be paid in kind or at the option of the Verumpattamdar in money according to the current market rates published in the Cochin Government Gazette.

23. Arrears of Pattam under this Act due from a Verumpattamdar may also be recovered in the same manner as arrears of Michavaram as provided in section 48 of the Cochin Tenancy Act, XV of 1113.

24. Any Verumpattamdar who has parted with possession of the properties comprised in his holding in execution of a decree passed in a suit instituted after the 1st Kumbham 1114 or who has of his own accord subsequent to that date parted with such possession is at liberty to apply for delivery of the properties so delivered or surrendered. Such application shall be made within 90 days from the commencement of this Act to the court which passed the decree where such delivery has been in pursuance of a decree and in all other cases to the court of the District Munsiff within whose jurisdiction the whole or any of the properties comprised in the holding situate and the court shall on payment by the applicant of the value of improvements, if any, received by him together with the value of improvements, if any, effected by the landlord subsequent to his taking possession pass an order directing the landlord to restore the possession to the applicant of the properties and such properties shall be held in the same manner and on the same terms as they were held on the date of delivery of possession or surrender.

25. The jurisdiction conferred on District Munsiffs under Chapter V of the Cochin Tenancy Act, XV of 1113, shall extend to the recovery of arrears of Pattam or other dues where the claim does not exceed Rs. 2,000.

Clause 13

The Diwan Peishkar

76. Clause 13 shall be deleted.

Mr. P. Kumaran Ezhuthassan

77. In clause 13 delete the portion appearing after the figure "1070" and add as follows.—"The compensation awarded by the Government shall be distributed as follows.—

(1) the land value will be distributed in the proportion of $\frac{7}{8}$ and $\frac{1}{8}$ between the Jenmi and the Verumpattamdar or Verumpattamdars as the case may be, entitled to the improvement.

Explanation.—Land value shall include the Solatium amount granted by Government.

(2) Value of improvements shall be distributed in the proportion of $\frac{3}{4}$ and $\frac{1}{4}$ between the Verumpattamdar or Verumpattamdars entitled to the improvement and Jenmi."

Insertion of a new clause after clause 13

Messrs. K. Ashtamoorthi Nambudiripad and C. V. Iyyu

78. Government may make rules to carry out all or any of the purposes of this Act and such rules on publication in the Gazette shall have the force of Law.

Clause 14

Mr. P. Kumaran Ezhuthassan

79. In clause 14 for the last four words substitute the words "the Act most favourable to the tenant shall prevail".

Addition of a new clause

The Diwan Peishkar

80. For section 25 of the Cochin Co-operative Land Mortgage Bank Act, XXV of 1111, the following shall be substituted, namely.—

Bank's right to improvements effected by lessee.—"The improvements if any, made subsequent to the date of the mortgage by a lessee of property mortgaged to the bank shall be treated as accession to the mortgaged property and shall be available to the bank for the realisation of the mortgaged amounts."

N. S. RADHAKRISHNA SARMA

Secretary to the Council